No. 86-1217 (4)

In the Supreme Court of the United States

OCTOBER TERM, 1986

JOSEPH P. RUSSONIELLO, ET AL., PETITIONERS

v.

JOSE J. OLAGUES ET AL., RESPONDENTS

Supreme Court, U.S.
FILED
JUL 2 1987
JOSEPH F. SPANIOL, JR.
CLERK

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

JOINT APPENDIX

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PETITION FOR WRIT OF CERTIORARI FILED JANUARY 23, 1987
CERTIORARI GRANTED APRIL 20, 1987

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ORDER: Defendant Russoniello's motion to dismiss is *Granted* in part., and *Denied* in part, filed May 24, 1982 .....

Plaintiff's application for TRO, filed May 22, 1982

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Plaintiff's *NOTICE OF APPEAL*, filed July 22, 1982 .....

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ORDER: Plaintiff's motion for leave to file a second amended complaint is—*Granted.*, with respect to the tenth claim for relief contained in the second amended complaint; subject however to Judge Williams' power to strike Plaintiff's second amended complaint upon reconsideration of this Order . . . Plaintiff's application for a

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MINUTE ORDER: Defendant's motion to dismiss—*GRANTED.*, Court to issue memo and opinion, filed December 17, 1982 .....

ORDER: That Plaintiff's motion to amend is *DENIED.*, Plaintiff's motion concerning Section 5 of the Voting Rights Act is—*DENIED.*, Defendant's motion for Summary Judgment is *GRANTED.*, Judgment shall be entered for the Defendants, filed September 14, 1983 .....

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Plaintiff's *NOTICE OF APPEAL,* filed November 10, 1983 .....

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2102

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED; HISPANIC COALITION FOR HUMAN RIGHTS; CHINESE FOR AFFIRMATIVE ACTION; AND SAN FRANCISCO LATINO VOTER REGISTRATION EDUCATION PROJECT, ON BEHALF OF THEMSELVES AND ALL OTHERS SIMILARLY SITUATED, PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY, AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA; WILLIAM A. O'MALLEY, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR CONTRA COSTA COUNTY; LON UNDERWOOD, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR CONTRA COSTA COUNTY; ARLO SMITH, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SAN FRANCISCO COUNTY; JAY PATTERSON, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SAN FRANCISCO COUNTY; JOHN MEEHAN, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR ALAMEDA COUNTY; JAMES RIGGS, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR ALAMEDA COUNTY; WILLIAM D. CURTIS, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR MONTEREY COUNTY; ROSS UNDERWOOD, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR MONTEREY COUNTY; JAMES D. BOITANO, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR NAPA COUNTY; BARBARA GREENSLAKE, INDIVIDUALLY AND IN HER CAPACITY AS REGISTRAR OF VOTERS FOR NAPA COUNTY;

KEITH SORENSON, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SAN MATEO COUNTY; MARVIN CHURCH, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SAN MATEO COUNTY; ARTHUR DONNER, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SANTA CRUZ COUNTY; RICHARD (DICK) NEAL, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SANTA CRUZ COUNTY; GENE L. TUNNEY, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SONOMA COUNTY; EVE LEWIS, INDIVIDUALLY AND IN HER CAPACITY AS REGISTRAR OF VOTERS FOR SONOMA COUNTY; LOUIS BERGNA, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SANTA CLARA COUNTY; GEORGE A. MANN, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SANTA CLARA COUNTY; DAVID ILCHERT, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT DIRECTOR OF THE IMMIGRATION AND NATURALIZATION SERVICE IN THE SAN FRANCISCO BAY AREA, DEFENDANTS.

CLASS ACTION FIRST AMENDED COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF RE DENIAL OF CIVIL RIGHTS

I

INTRODUCTION

1. By this action plaintiffs seek to enjoin federal and local public officials from engaging in discriminatory practices and policies aimed at preventing Hispanic-Americans and Chinese-Americans from participating in the electoral process. These illegal practices and policies have specifically focused on persons and groups who have requested and encouraged the use of bilingual election materials provided under federal and state law. Despite defendants' knowledge that these practices and policies

would violate plaintiffs' constitutional rights, defendants have steadfastly refused to halt a clandestine and discriminatory investigation of citizens of Hispanic and Chinese descent. Such practices, unless enjoined and declared illegal under the First, Fifth, Fourteenth and Fifteenth Amendments to the United States Constitution, the Voting Rights Acts of 1870, 1965 and 1975, as well as Article I, Section 1 of the California Constitution, will cause not only *irreparable injury* to these individuals but effectively deny their right to participate in the electoral process to vote.

II. JURISDICTION

2. Jurisdiction of this court is invoked pursuant to 28 U.S.C. § 1343(3) and § 1343(4); the rights sought to be protected are guaranteed by the First Amendment, Fifteenth Amendment, the equal protection and due process clauses of the Fourteenth and Fifth Amendments, as well as Title VI of the 1964 Civil Rights Act, 42 U.S.C. § 2000(d), and 42 U.S.C. § 1971 and § 1973. Jurisdiction is also invoked pursuant to 42 U.S.C. § 1971(d) which grants jurisdiction to district courts in actions seeking to enforce voting rights, and under 28 U.S.C. § 1361 since this is an action to compel an officer of the United States to perform a duty owed to plaintiffs. Plaintiffs also invoke the pendent jurisdiction of the court in connection with their claim that defendants' actions violate the right to informational privacy under the California Constitution, Article I, Section 1.

III. PARTIES

Plaintiffs

3. Plaintiff JOSE J. OLAGUES is a United States Citizen and a resident of Concord, California. He was born in Mexico and became a naturalized citizen of the

United States in 1965. He is able to understand, read, write, and speak English and he is fully conversant and literate in his native tongue which is Spanish. Plaintiff Olagues has requested the use of bilingual voting election materials, and has participated in California's electoral process since 1966.

4. Plaintiff Hispanic Coalition for Human Rights is a broad based non-profit association of Hispanic organizations and persons of Mexican American descent residing in the San Francisco Bay Area. The Coalition's basic objective is to secure the civil rights of Hispanics, particularly with respect to voting and immigration matters. As such, its members are vitally interested and affected by the actions of defendants in investigating persons who have requested election materials in languages other than English. The Coalition represents such groups as the Mexican American Political Association, the National La Raza Lawyers Association, the League of United Latin American Citizens (LULAC), and other Hispanic groups, all of whom have members affected by the activities alleged herein. In attempting to encourage Americans of Hispanic descent to register and vote, the members of the coalition have aided and advised persons of the availability of bilingual election materials. The coalition members also, from time to time, utilize bilingual election materials.

5. Chinese for Affirmative Action is a San Francisco based non-profit, non-partisan, tax-exempt voluntary membership organization dedicated to protecting the rights of Chinese Americans and to promoting equal employment opportunities for members of the Chinese community. Founded in 1969, Chinese for Affirmative Action has members who are non-English speaking citizens who utilize bilingual election materials and whose voting rights are protected by the 1975 amendment to the Voting Rights Act. Chinese for Affirmative Action has expended considerable time, funds and resources to monitor

compliance by the San Francisco Registrar of Voters with respect to the bilingual election provision of the Voting Rights Act and to ensure that its members partake of election materials in a language other than English. Chinese for Affirmative Action members have been intimidated and discouraged from participating in the June 1982 primary and in turn have been dissuaded from encouraging prospective Asian-American voters from registering and voting. The actions by defendants directly undermines and prevents Chinese for Affirmative Action from carrying out its objectives.

6. The San Francisco Latino Voter Registration Education Project (hereafter "Latino Voter Project") is a coalition of San Francisco Hispanic groups that is presently conducting a non-partisan registration drive aimed at registering as many Hispanics as possible before the June primary election and thereafter the national election in California. The Latino Project is vitally interested in having Hispanic citizens partake of the electoral process and exercise their legal right to register and vote. The Project, with its coalition members, is vitally interested in the activities herein alleged, and stands to be affected by the investigation and intimidation of persons who request bilingual ballots. The actions of defendants directly undermine and prevents the Latino Voter Registration Education Project from carrying out its objectives.

Defendants

7. Defendant JOSEPH P. RUSSONIELLO is sued individually and in his official capacity as the United States Attorney for the Northern District of California.

8. Defendants JOHN MEEHAN, WILLIAM O'MALLEY, WILLIAM D. CURTIS, JAMES D. BOITANO, ARLO SMITH, KEITH SORENSON, ARTHUR DONNER, LOUIS BERGNA and GENE L. TUNNEY are all sued individually and in their official

capacities as District Attorneys for the Counties of Alameda, Contra Costa, Monterey, Napa, San Francisco, San Mateo, Santa Cruz, Santa Clara and Sonoma, respectively.

9. Defendants JAMES RIGGS, LON UNDERWOOD, ROSS UNDERWOOD, BARBARA GREENSLATE, JAY PATTERSON, MARVIN CHURCH, RICHARD NEAL, GEORGE MANN and EESIE LEWIS, are all sued individually and in their official capacities as Registrars of Voters for the Counties of Alameda, Contra Costa, Monterey, Napa, San Francisco, San Mateo, Santa Cruz, Santa Clara, and Sonoma, respectively.

10. Defendant DAVID ILCHERT is sued individually and in his official capacity as District Director for the Immigration and Naturalization Service for the San Francisco Bay Area.

IV

CLASS ACTION ALLEGATIONS

11. Plaintiffs bring this action as a class action under Rule 23(b)(2). There are three classes.

a) As a first class, Plaintiff Jose J. Olagues and the class he represents are Hispanic American and Chinese American persons of foreign birth who have registered to vote or have voted within the last five years and have indicated a preference for utilizing election materials in a language other than English. Said class is limited to those individuals who reside in the following counties: Contra Costa, Alameda, San Francisco, Santa Cruz, Monterey, San Mateo, Napa, Sonoma and Santa Clara, and who, as a result of the actions taken by defendants, have been or will be subjected to governmental investigations and possible unwarranted criminal prosecutions by virtue of having their names culled from voter registration lists and sub-

mitted to governmental authorities because they have requested election materials in a language other than English.

b) As a second class, plaintiffs Jose J. Olagues, Hispanic Coalition for Human Rights, Chinese for Affirmative Action, and San Francisco Latino Voter Registration Education Project represent those Hispanic-American and Chinese-American individuals who have voted or expressed a desire to vote in future elections and who, as a result of the actions taken by defendants, will either forego from expressing a desire to utilize election materials in a language other than English, or decline to participate in the electoral process.

c) As a third class, plaintiffs Hispanic Coalition for Human Rights, Chinese for Affirmative Action and San Francisco Latino Voter Registration Education Project represent those persons or groups acting individually or in concert with others who are involved in voter education projects with Americans of Hispanic or Chinese descent and by virtue of such activity inform individuals of the availability of bilingual election materials. Said class is composed of all such groups and individuals who will be subject to investigation by virtue of defendants activities.

12. The requirements of Rule 23 of the Federal Rules of Civil Procedure are met herein in that:

a) The classes sought to be certified are so numerous that joinder of all members is impracticable.

b) There are questions of law and fact common to members of both classes, and such questions clearly predominate over any questions affecting only individual members of both classes.

c) The claims of the representative plaintiffs are typical of the claims of each class.

d) The representative plaintiffs will fairly and adequately protect the interests of each class.

e) The parties opposing the classes have acted on grounds generally applicable to each class, thereby making appropriate final injunctive and declaratory relief with respect to each class as a whole.

V

FACTUAL ALLEGATIONS

13. On April 19, 1982 defendant Russoniello initiated a *secret probe* of Hispanic-American and Chinese-American voters by sending a letter to nine Bay Area District Attorneys (a copy of which is attached as Exhibit A). The probe sought to investigate citizens of Hispanic and Chinese descent who had falsely registered and which may affect, in defendant Russoniello words, "the June election such that the results would be subject to court challenge."

14. This investigation was allegedly precipitated by a February 1981 study conducted by defendants Santa Clara County District Attorney and County Registrar of Voters. This study allegedly disclosed that of a test sample of 100 newly registered persons of foreign birth in Santa Clara county, several individuals were determined not to be U.S. citizens. The study was not revealed to the public nor was it made available to defendant district attorneys or registrars in initiating the investigation.

15. The April 19, 1982 letter requested each District Attorney and Registrar of Voters in the counties of Alameda, Contra Costa, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz and Sonoma to compile a list of Hispanic-American and Chinese-American persons within those counties whose recent affidavits of registration reflect (1) a foreign country as the place of birth, and (2) a preference for election materials in a language other than English.

16. The defendant District Attorneys were then to forward twenty-five "selected" names to defendant Russoniello for transmittal to defendant Ilchert. After a scan by the United States Immigration and Naturalization Service to determine whether such Hispanic-Americans and Chinese-Americans were eligible to vote, persons for whom there exists some doubt as to their voter eligibility would be referred back to defendant District Attorneys for investigation.

17. The actions of defendants to date have followed the procedures and time table stated in defendant Russoniello's letter. Accordingly, names of individuals who have requested bilingual ballots have been transmitted by defendant District Attorneys and defendant Registrars of Voters to defendant Russioniello. These names of persons have been reviewed by defendant Ilchert and the Immigration and Naturalization Service, and these Hispanic-Americans and Chinese-Americans have been, or will be subject to investigation by defendant District Attorneys.

18. Despite the questionable validity of a fourteen month old study involving a test sample of only 100 newly registered persons of foreign birth, Defendant Russoniello has insisted on maintaining this investigation only against persons requesting election information in Spanish or Chinese.

19. Such an investigation of persons who were foreign born and may have been ineligible to vote was not based on any reasonable suspicion that foreign born voters were committing fraud nor that the problem of voter irregularities was limited only to persons of Hispanic-American or Chinese-American descent. By focusing the investigation only on this select group of individuals, limited by national original and race to Hispanic-Americans and Chinese-Americans, defendants have acted willfully with a malicious intent to violate the legal rights

of plaintiffs, and have arbitrarily discriminated against those individuals who had requested bilingual election materials, i.e., citizens of Hispanic and Chinese descent.

20. Plaintiffs have suffered, and will suffer, irreparable injury because of the threat that they and their association with political groups may be investigated if federal defendants are "unable to state with surety" (see Exhibit A) that the former are naturalized citizens eligible to vote.

21. Defendants, all of whom are versed in the First Amendment rights of individuals to associate with groups and entities, as well as the right of individuals to participate in the electoral process free from racial or national origin stigmas, knew or should have known that such actions would single out only citizens of Hispanic or Chinese descent. Despite such knowledge, defendants pursued such an investigation in reckless disregard of the individuals rights of such individuals.

22. As a result of these clandestine investigations, defendants also planned to question citizens of Hispanic and Chinese descent who had their names pulled from voter registration lists as to which "special interest" groups had registered them, why they had registered, and whether such individuals had been induced to register under false pretenses. Such an investigation, as defendants knew, would not only violate the individual's right of association and right to refuse to answer question as to political activity, but also effectively intimidate, threaten and coerce Hispanic and Chinese-American groups actively involved in encouraging individuals to participate in registering and voting.

23. The activities undertaken by defendants were not undertaken pursuant to any grand jury investigation, nor was there any authorization given to those officials to undertake such an investigation by California State officials or the United States Attorney General. Such actions

by defendants were undertaken outside the scope of their authority and were an abuse of discretion.

24. Each of the defendants herein have participated in, or are beneficiaries of, programs that receive federal financial assistance.

VI

REQUISITES FOR RELIEF

25. Plaintiffs have suffered, and will continue to suffer, irreparable harm, injury, and loss as a direct and proximate result of the conduct of defendants complained of herein.

26. Plaintiffs lack a plain, speedy, or adequate remedy at law to prevent such irreparable harm, injury and loss, and will continue to so suffer unless this Court enjoins the conduct complained of.

27. An actual and substantial controversy exists between plaintiffs and defendants:

a. Plaintiffs contend that the conduct of defendants complained of herein is unlawful and unconstitutional for the reasons set forth herein.

b. Defendants contend that their conduct as described above is lawful and constitutional in all respects and fully intend to continue such conduct.

28. By reason of the acts of defendants complained of herein, plaintiffs have suffered actual harm and damage.

29. Defendants have committed the acts complained of herein willfully, maliciously, and in bad faith, under color of authority of the United States and the State of California, with full knowledge that said acts were violative of the constitutional and statutory rights alleged herein.

VII

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Violative of Fifteenth Amendment)

30. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 29, as set forth above.

31. By reason of the actions of the defendants as set forth herein above, Defendants have violated the Fifteenth Amendment.

SECOND CLAIM FOR RELEIF

(Equal Protection)

32. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 29, as set forth above. Defendants have participated in the compilation of a list of individuals on voter registration lists who have or will have used bilingual election materials. Such a list was compiled only of citizens of Hispanic or Chinese descent, since by necessity only these individuals request bilingual election materials. Despite defendants' knowledge that voting irregularities may have occurred with respect to all naturalized citizens, defendants intentionally selected only citizens of Hispanic or Chinese descent for investigation.

33. This classification of voters is invidious and arbitrary in that it causes a discriminatory investigation of plaintiffs and the class they represent solely on the basis of race, color or national origin. As to the Federal defendants, such discriminatory practices deny plaintiffs equal protection of the law in violation of the Fifth Amendment to the United States Constitution. As to the State defendants, such practices violate the Fourteenth Amendment.

THIRD CLAIM FOR RELIEF

(Due Process)

34. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 29, as set forth above.

35. The investigation herein described was undertaken by defendants without any reasonable basis to believe that citizens of foreign birth requesting bilingual ballot material were illegally registering to vote. Such investigation, undertaken in a clandestine manner, is in violation of plaintiffs' due process rights under the Fifth and Fourteenth Amendment to the United States Constitution as against the state defendants and the Fifth Amendment against the federal defendants.

FOURTH CLAIM FOR RELIEF

(Violation of Voting Rights Act, 42 U.S.C. § 1971)

36. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 29, as set forth above.

37. The actions of all defendants as set out above have effectively intimidated, threatened, and coerced citizens of Hispanic and Chinese ancestry from participating in the electoral process. Such actions, made under color of state or federal law, have been undertaken on the basis of race, color and national origin in violation of the Voting Rights Act of 1860, 42 U.S.C. §1971, et seq., and particularly 42 U.S.C. § 1971(b).

FIFTH CLAIM FOR RELIEF

(Violation of Voting Rights Act, 42 U.S.C. § 1973)

38. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 29, as set forth above.

39. The actions of all defendants as set out above have effectively intimidated, threatened, and coerced plaintiffs by establishing qualifications to vote based on race and national origin as well as intimidating, threatening and preventing plaintiffs from aiding citizens of Hispanic and Chinese ancestry from participating in the electoral process in violation of 42 U.S.C. § 1973i(b).

SIXTH CLAIM FOR RELIEF

(Violation of Bilingual Election Requirements, 42 U.S.C. 1973 aa-1a)

40. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 29, as set forth above.

41. The actions of the defendants as set out above have effectively discriminated against citizens of language minorities, in violation of 42 U.S.C. § 1973 aa-1a, et seq., which prohibits such practices.

SEVENTH CLAIM FOR RELIEF

(Violation of First Amendment)

42. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 29, as set forth above.

43. The actions of defendants as set out above have effectively threatened, coerced and intimidated plaintiffs in their efforts to seek out citizens of Hispanic and Chinese ancestry for purposes of urging them to participate in the electoral process. Defendants' actions, which threaten to investigate how plaintiff groups are registering citizens of Hispanic and Chinese descent, are and will be violating plaintiffs' right of association and political expression in violation of the First Amendment to the United States Constitution.

EIGHTH CLAIM FOR RELIEF

(42 U.S.C. 2000(d))

44. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 29, as set forth above.

45. The actions of defendants have subjected plaintiffs to discriminatiion on the basis of race, color or national origin under a program or activity receiving federal financial assistance in violation of 42 U.S.C. § 2000(d).

NINTH CLAIM FOR RELIEF

(Right of Privacy)

46. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 29, as set forth above.

47. By defendants selecting names of individuals seeking election material in languages other than English for the purpose of secret investigations, defendants have initiated, encouraged and condoned a violation of Article I, Section 1 of the California Constitution which guarantees a right of privacy to every person in California. Such acts by defendants violated plaintiffs' right of privacy in that using a person's request for a bilingual ballot was for an entirely unauthorized, unrelated purpose.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray:

1. For a temporary restraining order prohibiting defendant Russoniello, his successors, employees, agents, and all persons working in concert or participation with him, from requesting, seeking, soliciting, or requiring that defendant District Attorneys and Registrars forward to the office of the United States Attorney the names of any persons solely on the basis of their having sought bilingual

election materials in their respective counties, and further requiring defendants Russoniello and Ilchert, their successors, employees, agents, and defendant District Attorneys and Registrars, and all persons working in concert or participation with them, to maintain, under seal pending further order of the Court, all information previously gathered solely on the basis of a person having requested bilingual ballot material and to refrain from transferring said information to any other person or agency, and further prohibiting the defendant District Attorneys and County Registrars, their successors, employees, agents, and all persons working in concert or participation with them, from taking any further action to facilitate, aid, or otherwise assist the office of the United States Attorney or the Immigration and Naturalization Service to obtain names of persons requesting bilingual ballot materials, and to show cause before the court why they should not be enjoined in the future.

2. For an order certifying that plaintiffs may properly represent all other persons similarly situated and that the action may be maintained as a class action.

3. For a preliminary injunction prohibiting defendant Russoniello, his successors, employees, agents, and all other persons working in concert or participation with him from requesting, seeking, soliciting or requiring that defendant District Attorneys and Registrars forward to the office of the United States Attorney or the Immigration and Naturalization Service the names of any persons solely on the basis of their having sought bilingual election materials in their respective counties, and further requiring that defendants Russoniello and Ilchert, and defendants District Attorneys and Registrars, maintain under seal pending final disposition of the case, all information previously gathered and refrain from transferring the information by any person or agency except under court order, and further prohibiting defendant District Attorneys and Registrars, their successors, employees, agents

and all persons working in concert or participation with them from taking any further actions to facilitate, aid, or otherwise assist the office of the United States Attorney or the Immigration and Naturalization Service to obtain names or intimidate persons requesting bilingual ballot materials.

4. For a preliminary injunction restraining the defendants and each of them, their successors, employees, and all persons working in concert or participation with them, from taking any action to threaten, intimidate, or coerce any persons or group from exercising their right or attempting to exercise their right to receive bilingual election materials under state or federal law.

5. For a judgment pursuant to 28 U.S.C. § 2201-2202 declaring the respective rights of the parties.

6. For a permanent injunction prohibiting defendant Russoniello, his successors, employees agents, all other persons working in concert or participation with him, from requesting, seeking, soliciting or requiring that defendant District Attorneys and Registrars forward to the office of the United States Attorney or the Immigration and Naturalization Service the names of any persons solely on the basis of their having sought bilingual election materials in their respective counties, and further requiring that defendants Russoniello and Ilchert, and defendants District Attorneys and Registrars, destroy, expunge and obliterate all information previously gathered, and refrain from transferring the information to any person or agency except under court order, and further prohibiting defendant District Attorneys and Registrars, their successors, employees, agents and all persons working in concert or participation with them from taking any further actions to facilitate, aid, or otherwise assist the office of the United States Attorney or the Immigration and Naturalization Service to obtain names or intimidate persons requesting bilingual ballot materials.

7. For statutory damages according to law for each violation of the Voting Rights Act.

8. For costs of suit and reasonable attorneys fees.

9. For all other relief that the court finds equitable and proper.

DATED: May 7, 1982

Respectfully submitted,

JOAQUIN G. AVILA
MORRIS J. BALLER
HECTOR VASQUEZ
SUSAN E. BROWN
RONALD T. VERA
Mexican American Legal Defense and Educational Fund

MARGARET C. CROSBY
ALAN L. SCHLOSSER
AMITAI SCHWARTZ
American Civil Liberties Union Foundation of Northern California

LAWRENCE B. GARCIA

By: RONALD T. VERA
Attorneys for Plaintiffs

Exhibit A

U.S. Department of Justice

United States Attorney
Northern District of California

16th Floor Federal Building – Box 36055
450 Golden Gate Avenue
San Francisco, California 94102

Branch Office
675 N. First Street, Suite 508
San Jose, California 95112

April 19, 1982

Honorable William A. O'Malley
District Attorney
Contra Costa County
Post Office Box 670
Courthouse
Main and Court Street
Martinez, California 94553

Re: Primary Election: June 8, 1982 –
Possible Inappropriate Voter Registration
of Aliens

Dear Mr. O'Malley:

Your county, together with the counties of Alameda, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz and Sonoma, has previously been identified as effected by the provisions of 42 United States Code, Section 1973aa-1a and following, commonly known as the Bilingual Election Requirement. Those provisions require that each effected county provide "any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process,

including ballots," in the Spanish language and, in the case of San Francisco County, in the Chinese language in addition to English.

As a corollary to the effected counties' efforts to comply, several groups have undertaken voter registration drives targeted toward registering individuals whose primary language is Spanish or Chinese and we do not challenge their right to do so. However, an investigation undertaken by the Santa Clara County District Attorney at the request of Voter Registrar George Mann beginning in about February 1981, disclosed that with respect to a test sample of 100 newly-registered persons of foreign birth, twenty were determined not to be U.S. Citizens and eleven others could not be located. The investigation disclosed that those persons who were not U.S. Citizens, but who did register erroneously, believed they were eligible to vote because they were either married to U.S. Citizens or had been residents of the United States for a long period of time.

We are concerned, as I am sure you are, that if as many as thirty percent of the newly-registered foreign born persons vote even though they are not eligible to do so, especially given the expected intensive effort to register non-English speaking persons, the elections to be held June 8 may be so effected that the results are subject to court challenge. Any successful challenge will mean considerable expense, both to the counties and to the candidates involved therein.

It is too early to sound any alarm but there is, in my judgment, a sufficient basis for our undertaking some mutual effort to determine the extent to which persons are being registered who are not entitled to vote. If such be the case it seems to me that the fault or blame, if any need be leveled, lies with the registration affidavit form itself in that even though question No. 6 asks for the state in the USA or foreign country of birth, there is no follow-up

question eliciting information as to the date and place of naturalization if a foreign country *is* the place of birth. Even though the affidavit contains the statement, "I am a citizen of the United States . . . ," as has previously been shown, a significant number of persons believed that citizenship was synonomous with residency and/or could be acquired by marriage alone. (I enclose a copy of the affidavit which I understand is used in one form or another in your county for your information.)

Before any accurate assessment can be made that we have a problem with respect to the June election, we should at least sample the newly-registered persons of foreign birth to determine what percentage of them are in fact eligible to vote and to that end I propose the following:

1. Through your good offices, the Registrar of Voters should be asked to submit at random the names and dates of birth of twenty-five persons of new registration, whose affidavits of registration reflect (1) a foreign country as the place of birth and (2) a preference for election materials in a language other than English.

2. Those names and dates of birth should be forwarded to us not later than April 30, 1982.

3. Upon receipt, we will forward the twenty-five names received from your Registrar and the twenty-five names received from the Registrars in all other counties aforenamed to the Immigration and Naturalization Service who will scan their computer for the purpose of determining the number of persons known to be naturalized or, in the alternative, known to be resident aliens ineligible to vote. They will report their results to us and we will pass them on to you by no later than May 7, 1982.

4. As to each person with respect to whom we are unable to state with surety that he/she has been naturalized, a follow-up interview should be conducted by your office to determine (1) the basis upon which they claim citizenship and entitlement to vote and (2) in cases in

which they are unable to prove citizenship, what representations were made to them by Registrars as to their qualification to vote. These follow-up interviews should be given priority so that all investigations are completed by May 21.

5. On May 24 we will check with each DA's office to determine the results of their investigation and will report to each office on May 25 the results of the overall investigation.

6. Depending upon those results and the extent to which inappropriate registration is determined, we should decide by mutual agreement what further action to take. In this connnection, a joint press conference alerting the general public and prospective unauthorized voters in particular of the results of our investigation might be appropriate. Alternatively, the respective Registrars may choose to take some action with regard to each potential voter effected by our survey to require proof of citizenship before permitting that person to vote. The various alternatives will require considerable discussion and your input as well as the input of the Registrar of Voters who might be required to take some action.

For our part, we do not contemplate initiating prosecutions against individual registrants as we are empowered to do pursuant to the provisions of 42 U.S.C., Section 1973dd-3(c), but will seriously consider such prosecutions against persons whom the evidence shows deliberately "conspired with another individual for the purpose of encouraging the giving of false information in order to establish the eligibility of any individual to register . . ." Your would of course be free to pursue whatever action you deemed appropriate as provided for in Section 29200 of the California Elections Code.

Because of the sensitivity of this matter and because it is premature to suggest that the June 8 election is in jeopardy, we will refrain from issuing any press advisory or making

any statement regarding this ongoing investigation and will consult with you before taking any such action. I would appreciate your doing likewise and hearing from you if you consider some media notification to be appropriate at this time.

If you have any question concerning the foregoing or would like to discuss the matter further, Chief Assistant United States Attorney William T. McGiven (556-8477) will be coordinating the effort on our end and will make himself available to discuss planning with you.

Very truly yours,

/s/ JOSEPH P. RUSSONIELLO
Joseph P. Russoniello
United States Attorney

Enclosure

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2101

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED; HISPANIC COALITION FOR HUMAN RIGHTS; CHINESE FOR AFFIRMATIVE ACTION; AND SAN FRANCISCO LATINO VOTER REGISTRATION EDUCATION PROJECT, PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY, AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA; WILLIAM A. O'MALLEY, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR CONTRA COSTA COUNTY; LON UNDERWOOD, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR CONTRA COSTA COUNTY; ARLO SMITH, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SAN FRANCISCO COUNTY; JAY PATTERSON, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SAN FRANCISCO COUNTY; JOHN MEEHAN, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR ALAMEDA COUNTY; JAMES RIGGS, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR ALAMEDA COUNTY; WILLIAM D. CURTIS, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR MONTEREY COUNTY; ROSS UNDERWOOD, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR MONTEREY COUNTY; JAMES D. BOITANO, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR NAPA COUNTY; BARBARA GREENSLAKE, INDIVIDUALLY AND IN HER CAPACITY AS REGISTRAR OF VOTERS FOR NAPA COUNTY;

KEITH SORENSON, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SAN MATEO COUNTY; MARVIN CHURCH, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SAN MATEO COUNTY; ARTHUR DONNER, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SANTA CRUZ COUNTY; RICHARD (DICK) NEAL, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SANTA CRUZ COUNTY; GENE L. TUNNEY INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SONOMA COUNTY; EVE LEWIS, INDIVIDUALLY AND IN HER CAPACITY AS REGISTRAR OF VOTERS FOR SONOMA COUNTY; LOUIS BERGNA, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SANTA CLARA COUNTY; GEORGE A. MANN, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SANTA CLARA COUNTY; DAVID ILCHERT, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT DIRECTOR OF THE IMMIGRATION AND NATURALIZATION SERVICE IN THE SAN FRANCISCO BAY AREA, DEFENDANTS.

DECLARATION OF AL BORVICE, CHAIRPERSON OF SAN FRANCISCO LATINO VOTER REGISTRATION EDUCATION PROJECT

I, Al Borvice, declare:

1. I am the duly authorized chairperson of the SAN FRANCISCO LATINO VOTER REGISTRATION AND EDUCATION PROJECT (hereinafter "SFLVREP" or "Project"). SFLVREP is a politically nonpartisan coalition of the San Francisco chapter of the Mexican American Political Association and the Latino Democratic Club of San Francisco. The sole purpose of the Project is educating the San Francisco Latino community about the electoral process and registering Latinos to vote.

2. On April 2, 1982, the Project officially started its voter registration and education drive for the June 1982 primary election. The Project will finish its current drive to register voters on May 10, 1982—the deadline for registering to vote in the June primary election.

3. The Project depends upon volunteers and one paid staff person to achieve its objectives of voter education and registration.

4. The Project's primary method of voter registration is central site registration whereby volunteers register individuals in heavily-traveled areas, such as shopping centers, bus stops, churches, street fairs, and other public events. Volunteers also register voters by going door to door in targeted precincts in the Mission District of San Francisco. Before the Project permits volunteers to register voters, the Project staff trains the volunteers in completing voter registration forms properly.

5. As of May 3, 1982, the Project had registered approximately 1600 voters. A substantial proportion of these individuals is Latino. Many of the individuals that the Project registered to vote either requested bilingual ballots or were born in a foreign country.

6. Based upon the Project's week-by-week registration statistics, the Project anticipated that the most successful week for registering voters would be the fifth and final week of the drive—the week of May 3, 1982.

10. On May 3, 1982, or thereabouts, I became aware of the United States Attorney's investigation of individuals who register to vote and who either had requested a bilingual ballot or were born in a foreign country.

11. The United States Attorney's investigation has caused, and will continue to cause, irreparable harm to the Project's efforts to register Latino voters. This harm occurs because, as knowledge of the investigation spreads through the Latino community, it will discourage those Latinos from registering who do not want to be the subject

of a special investigation by the federal government. Many Latinos do not trust the government's accumulation and use of personal information about an individual's political activity. Many Latino citizens in San Francisco are familiar with governments in other countries where information about voting and other political activity is used to harass, intimidate, and oppress voters. These Latinos need encouragement to vote under the best of circumstances. These Latinos do not want to be the subject of an investigation by the federal government prompted solely because they registered to vote and need a bilingual ballot or were born in a foreign country. The efforts of SFLVREP to register as many Latinos as possible for the primary election has been, and will continue to be, undermined by the special investigation conducted by the United States Attorney.

12. This week—the week of May 3, 1982—the Project has experienced a noticeable decrease in the number of volunteers who have helped register voters in the previous weeks of the registration drive.

13. In spite of the United States Attorney's investigation, the Project will continue its voter registration and education drive and attempt to register as many Latino voters as we can under the circumstances.

I declare under penalty of perjury that the foregoing is true and correct and was executed in San Francisco, California.

Dated: May 6, 1982.

/s/ AL BORVICE

Al Borvice

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2102

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED; HISPANIC COALITION FOR HUMAN RIGHTS; CHINESE FOR AFFIRMATIVE ACTION; AND SAN FRANCISCO LATINO VOTER REGISTRATION EDUCATION PROJECT, PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY, AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA; WILLIAM A. O'MALLEY, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR CONTRA COSTA COUNTY; LON UNDERWOOD, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR CONTRA COSTA COUNTY; ARLO SMITH, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SAN FRANCISCO COUNTY; JAY PATTERSON, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SAN FRANCISCO COUNTY; JOHN MEEHAN, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR ALAMEDA COUNTY; JAMES RIGGS, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR ALAMEDA COUNTY; WILLIAM D. CURTIS, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR MONTEREY COUNTY; ROSS UNDERWOOD, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR MONTEREY COUNTY; JAMES D. BOITANO, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR NAPA COUNTY; BARBARA GREENSLAKE, INDIVIDUALLY AND IN HER CAPACITY AS REGISTRAR OF VOTERS FOR NAPA COUNTY;

KEITH SORENSON, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SAN MATEO COUNTY; MARVIN CHURCH, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SAN MATEO COUNTY; ARTHUR DONNER, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SANTA CRUZ COUNTY; RICHARD (DICK) NEAL, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SANTA CRUZ COUNTY; GENE L. TUNNEY, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SONOMA COUNTY; EVE LEWIS, INDIVIDUALLY AND IN HER CAPACITY AS REGISTRAR OF VOTERS FOR SONOMA COUNTY; LOUIS BERGNA, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SANTA CLARA COUNTY; GEORGE A. MANN, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SANTA CLARA COUNTY; DAVID ILCHERT, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT DIRECTOR OF THE IMMIGRATION AND NATURALIZATION SERVICE IN THE SAN FRANCISCO BAY AREA, DEFENDANTS.

DECLARATION OF GEORGE CANTU, CO-CHAIRMAN OF THE CONTRA COSTA COUNTY CHAPTER OF THE HISPANIC COALITION FOR HUMAN RIGHTS

DECLARATION OF GEORGE CANTU

I, GEORGE CANTU, declare as follows:

1. That my name is George Cantu and I currently reside at 622 30th Street in Richmond, California. I have resided in Contra Costa County for 39 years.

2. During my 39 years residing in Contra Costa County I have been active in political affairs and have on several occasions exercised my legal right to vote.

3. I am currently serving as Co-chairman of the Hispanic Coalition for Human Rights in Contra Costa County. This organization is the Contra Costa County

chapter of the Hispanic Coalition for Human Rights (hereafter "coalition") which is a non-profit association of Hispanic organizations. The Coalition's basic objective is to secure the civil rights of Hispanics, particularly with respect to voting and immigration matters.

4. A portion of the activities of the Coalition is providing information to Hispanics and others about their eligibility to vote. These activities include informating interested persons of their right to receive voter information and to cast a ballot in the Spanish language.

5. Since May 1, 1982, I have become personally aware of several inquiries made to the Coalition from persons and service organizations with questions about the current investigations by the United States Government into persons requesting bilingual voter materials in Contra Costa County, as well as questions regarding the highly publicized sweeps of the United States Immigration and Naturalization Service.

6. As a member of the Coalition I am deeply concerned that these investigations may lead to an inquiry from federal and local law enforcement officials about the nature and type of communication between the Coalition and persons requesting information about their eligibility to register to vote.

7. The fear instilled by the potential of such inquiries has had a chilling effect upon the activities of the Coalition and the fulfillment of its objectives. This investigative activity is particularly egregious because it comes at a time immediately preceding the May 10, 1982 closing date for voter registrations for the June primary elections.

8. The actions of federal and Contra Costa County officials violate my and the Coalition's legal rights of association in intimidating our voter registration activities by threats of prosecutorial investigations.

I declare that the foregoing is true and correct and that if called as a witness I could competently testify thereto.

Executed this 7th day of May, 1982, at San Francisco, California.

/s/ GEORGE CANTU

George Cantu

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2101

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED; HISPANIC COALITION FOR HUMAN RIGHTS; CHINESE FOR AFFIRMATIVE ACTION; AND SAN FRANCISCO LATINO VOTER REGISTRATION EDUCATION PROJECT, PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY, AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA; WILLIAM A. O'MALLEY, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR CONTRA COSTA COUNTY; LON UNDERWOOD, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR CONTRA COSTA COUNTY; ARLO SMITH, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SAN FRANCISCO COUNTY; JAY PATTERSON, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SAN FRANCISCO COUNTY; JOHN MEEHAN, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR ALAMEDA COUNTY; JAMES RIGGS, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR ALAMEDA COUNTY; WILLIAM D. CURTIS, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR MONTEREY COUNTY; ROSS UNDERWOOD, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR MONTEREY COUNTY; JAMES D. BOITANO, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR NAPA COUNTY; BARBARA GREENSLAKE, INDIVIDUALLY AND IN HER CAPACITY AS REGISTRAR OF VOTERS FOR NAPA COUNTY;

KEITH SORENSON, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SAN MATEO COUNTY; MARVIN CHURCH, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SAN MATEO COUNTY; ARTHUR DONNER, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SANTA CRUZ COUNTY; RICHARD (DICK) NEAL, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SANTA CRUZ COUNTY; GENE L. TUNNEY, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SONOMA COUNTY; EVE LEWIS, INDIVIDUALLY AND IN HER CAPACITY AS REGISTRAR OF VOTERS FOR SONOMA COUNTY; LOUIS BERGNA, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SANTA CLARA COUNTY; GEORGE A. MANN, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SANTA CLARA COUNTY; DAVID ILCHERT, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT DIRECTOR OF THE IMMIGRATION AND NATURALIZATION SERVICE IN THE SAN FRANCISCO BAY AREA, DEFENDANTS.

DECLARATION OF HENRY DER IN SUPPORT OF TEMPORARY RESTRAINING ORDER

I, HENRY DER, declare as follows:

1. My name is Henry Der. I am the Executive Director of Chinese for Affirmative Action. I have held this position with Chinese for Affirmative Action since August, 1974.

2. On May 6, 1982, I met with U.S. Attorney Joseph Russoniello to discuss his office's probe of foreign-born registered voters who have requested bilingual ballots in nine San Francisco counties.

3. On behalf of Chinese for Affirmative Action, I requested Mr. Russoniello to cease immediately this investigation of voters requesting bilingual ballots. Further-

more, I asked that, upon receipt of 25 names of foreign-born registered from each of the nine San Francisco Bay Area District Attorney's Offices, he not forward these names to the Immigration and Naturalization Service for verification of naturalization. Lastly, I requested that, if some of these names do not appear on Immigration and Naturalization Service naturalization lists, the U.S. Attorney's Office not submit these names back to the local District Attorney's offices for further investigation.

4. Mr. Russoniello indicated to me that, based on a survey of foreign-born voters conducted by the Santa Clara County Registrar of Voters last February, 1981, he decided to launch a probe of non-citizen registered voters residing in nine San Francisco Bay Area counties, obligated under the 1975 amendments to the Voting Rights Act of 1965 to conduct bilingual elections for non-English speaking citizens.

5. In spite of my requests for his office to cease the probe of foreign-born registered voters requesting bilingual ballots, Mr. Russoniello indicated to me that he was proceeding with his investigation.

I declare under penalty of perjury that the foregoing is true and correct and that if called as a witness, I would competently testify thereto.

Executed this 12th day of May, 1982, at San Francisco, California.

/s/ HENRY DER

Henry Der

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2101

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED; HISPANIC COALITION FOR HUMAN RIGHTS; CHINESE FOR AFFIRMATIVE ACTION; AND SAN FRANCISCO LATINO VOTER REGISTRATION EDUCATION PROJECT, PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY, AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA; WILLIAM A. O'MALLEY, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR CONTRA COSTA COUNTY; LON UNDERWOOD, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR CONTRA COSTA COUNTY; ARLO SMITH, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SAN FRANCISCO COUNTY; JAY PATTERSON, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SAN FRANCISCO COUNTY; JOHN MEEHAN, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR ALAMEDA COUNTY; JAMES RIGGS, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR ALAMEDA COUNTY; WILLIAM D. CURTIS, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR MONTEREY COUNTY; ROSS UNDERWOOD, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR MONTEREY COUNTY; JAMES D. BOITANO, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR NAPA COUNTY; BARBARA GREENSLAKE, INDIVIDUALLY AND IN HER CAPACITY AS REGISTRAR OF VOTERS FOR NAPA COUNTY;

KEITH SORENSON, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SAN MATEO COUNTY; MARVIN CHURCH, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SAN MATEO COUNTY; ARTHUR DONNER, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SANTA CRUZ COUNTY; RICHARD (DICK) NEAL, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SANTA CRUZ COUNTY; GENE L. TUNNEY, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SONOMA COUNTY; EVE LEWIS, INDIVIDUALLY AND IN HER CAPACITY AS REGISTRAR OF VOTERS FOR SONOMA COUNTY; LOUIS BERGNA, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SANTA CLARA COUNTY; GEORGE A. MANN, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SANTA CLARA COUNTY; DAVID ILCHERT, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT DIRECTOR OF THE IMMIGRATION AND NATURALIZATION SERVICE IN THE SAN FRANCISCO BAY AREA, DEFENDANTS.

DECLARATION OF LUANNE LASH

I, Luanne Lash, declare:

1. I am an employee of the Mexican American Legal Defense and Educational Fund and on May 5 and 6, 1982 contacted certain individuals regarding the list of foreign born voters requesting bilingual ballots which had to be sent by Bay Area District Attorneys to U.S. Attorney Russoniello.

2. On Wednesday, May 5, 1982, I talked to John Phillips, Assistant District Attorney for Monteray County. He informed me that a list of names had been sent to the U.S. Attorney's office the same day he had received the list from the Registrar of Voters which was on May 3, 1982.

3. The same day, May 5, 1982, I talked to James Boitana, District Attorney for Napa County. He said he received a list of names of people who had requested bilingual election materials on April 27th and sent this list on May 5th to Russoniello.

4. I then talked to Don Gartner, an attorney in Santa Cruz County who said he received a list of all 79 individuals who were foreign born and had requested bilingual ballots. However, he told me they did not meet all three criteria in that none of them were recent registrants for the year of 1982. At that time, he did not know what they were going to do with the list. He stated it would be up to the District Attorney to decide whether to send in all 79 names, select 25 at random or not send any. He did not know when this decision would be made.

5. On Thursday, May 6th, I spoke with Eve Lewis the County Registrar of Voters for Sonoma County. She told me she had sent a list of sixteen names which met the criteria requested by Russioniello on April 23rd to the District Attorney's office.

6. Following that conversation, I spoke with James Riggs, the County Registrar of Voters for Alameda County who said he sent a list of 300 names to the District Attorney's office before the April 30th deadline. Immediately following that call, I spoke to Robert Platt, Senior Deputy District Attorney, who told me thirty-four (34) registered affidavits had also accompanied the 43 page computer print out of names, which met all three criteria requested by Russoniello. He said he then sent the list "out" before the deadline.

7. From San Francisco County, I spoke to Jay Patterson, the San Francisco County Registrar of Voters. He said he sent the list requested by Russoniello directly to the U.S. Attorney's office the week after the deadline. He informed me that District Attorney Arlo Smith had requested him to send 35 names. Only 4 of the 35 had requested bilingual ballots.

8. From San Mateo county, I spoke with Robert Kasper, the Assistant County Registrar of Voters who referred me to Marvin Church. In the conversation with Church, he stated that the list of twenty-five names was compiled by Tower Road and that he sent it directly to the U.S. Attorney's office with a copy sent to Keith Sorenson the District Attorney.

I declare under penalty of perjury that the foregoing is true and correct and was executed in San Francisco, California.

May 7, 1982	/s/ LUANNE LASH
Date	Luanne Lash

EXHIBIT "A"
DECLARATION OF JOSE J. OLAGUES

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2102

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED; HISPANIC COALITION FOR HUMAN RIGHTS; CHINESE FOR AFFIRMATIVE ACTION; AND SAN FRANCISCO LATINO VOTER REGISTRATION EDUCATION PROJECT, PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY, AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA; WILLIAM A. O'MALLEY, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR CONTRA COSTA COUNTY; LON UNDERWOOD, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR CONTRA COSTA COUNTY; ARLO SMITH, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SAN FRANCISCO COUNTY; JAY PATTERSON, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SAN FRANCISCO COUNTY; JOHN MEEHAN, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR ALAMEDA COUNTY; JAMES RIGGS, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR ALAMEDA COUNTY; WILLIAM D. CURTIS, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR MONTEREY COUNTY; ROSS UNDERWOOD, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR MONTEREY COUNTY; JAMES D. BOITANO, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR NAPA COUNTY; BARBARA GREENSLAKE, INDIVIDUALLY AND IN HER CAPACITY AS REGISTRAR OF VOTERS FOR NAPA COUNTY;

KEITH SORENSON, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SAN MATEO COUNTY; MARVIN CHURCH, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SAN MATEO COUNTY; ARTHUR DONNER, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SANTA CRUZ COUNTY; RICHARD (DICK) NEAL, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SANTA CRUZ COUNTY; GENE L. TUNNEY, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SONOMA COUNTY; EVE LEWIS, INDIVIDUALLY AND IN HER CAPACITY AS REGISTRAR OF VOTERS FOR SONOMA COUNTY; LOUIS BERGNA, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SANTA CLARA COUNTY; GEORGE A. MANN, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SANTA CLARA COUNTY; DAVID ILCHERT, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT DIRECTOR OF THE IMMIGRATION AND NATURALIZATION SERVICE IN THE SAN FRANCISCO BAY AREA, DEFENDANTS.

DECLARATION OF JOSE J. OLAGUES

I, JOSÉ J. OLAGUES, declare as follows:

1. My name is José J. Olagues. I am the plaintiff in the above-entitled action. I was born on February 12, 1945 in Mazatlan, Mexico. I am 37 years old and a naturalized Citizen of the United States of America. I reside at 4112 Tulare Court, Concord, California 94521, where I have lived for the past eight (8) years. I have lived in Concord, California for the past ten (10) years. I am married to Beverly Olagues, a United States Citizen, and have been married for seventeen (17) years. My wife and I have three (3) children: Tanya, 13; Khristina, 8; and Jose B., 7. They are all Citizens of the United States of America.

2. I am employed by Pacific Telephone Company, 370 Third St., San Francisco, California as an analyst in the accounting department. I have worked for Pacific Telephone Company for the past eleven (11) years, being employed in my present position as an analyst for the past year and a half.

3. I am a veteran of the Armed Forces of the United States. I was drafted into the U.S. Army on January 18, 1967, released from active duty in 1969, and was honorably discharged in 1973 from reserve status. I attained the rank of Staff Sargent "E"-6. My duties while in the military were administrative instructor.

4. In the Summer of 1960, my family moved to Hayward, California from Guadlajara, Mexico. I was 15 years old at the time. My mother, Refugio Olagues, is also a Citizen of the United States of America, born in Sims, California. I was a legal resident alien of the United States when I moved to California. I am bilingual in Spanish and English. In the Fall of 1965, at Oakland, California, I became a naturalized Citizen of the United States of America. I was 20 years old at the time. When I turned 21, I registered to vote in San Leandro, California in Alameda County. Since 1972 I have been registered to vote in Concord, California.

5. In 1981 I was a candidate for election to the Mount Diablo Unified School District Board of Education. In accordance with the procedures for running for elected office, I made a candidate's statement that would appear in the voter information packet and sample ballot distributed to registered voters in the District. I wrote my candidate statement in English and knew that it would be translated into Spanish for inclusion in the Spanish language voting information packet that is distributed to persons who specifically request voter material in the Spanish language. Being aware that sometimes translations are not entirely accurate, I wanted to read my candidate statement in the

Spanish language voter information packet, so I requested the Spanish language voter information material and ballot on August 27, 1981. Although I had been registered to vote since 1972 in Concord, California, I had to re-register to vote in August, 1981 because I had requested the material in the Spanish language. I have been receiving voter registration material in the Spanish language ever since I re-registered to vote.

6. On May 1, 1982 I read a newspaper article printed in the *East Bay Today* in which reporter Carol Benfell quoted United States Attorney, Joseph Russoniello, as acknowledging that the United States Government had begun an investigation of suspected voter fraud. The article further quoted the U.S. Attorney as having asked the District Attorneys in nine (9) Northern California counties to obtain names of persons requesting bilingual voter information. From that list, the District Attorneys were to "select" twenty-five (25) names to be forwarded to the United States Immigration and Naturalization Service for review and ultimately sent back to local law enforcement agencies for investigation. (A copy of the article I read is attached as Exhibit "A" to my declaration).

7. On May 4, 1982, I was shown a copy of an April 19, 1982 letter from U.S. Attorney Russoniello to Contra Costa County District Attorney, William A. O'Malley, (Attached as Exhibit "A" to the complaint). I was also shown District Attorney O'Malley's response to Russoniello's letter. Attached to the response letter of District Attorney O'Malley was a list of names of voters who had been "selected" for the investigation. I observed my name and address on the attached list.

8. I fear that now that my identity has been given to the United States Government for review, and I will soon be contacted by local law enforcement agencies to prove my citizenship or to determine if I have been contacted by registrars of voters or special interest groups.

9. I will suffer irreparable injury if the federal government is permitted to communicate the results of the U.S. Immigration and Naturalization Service reviews to District Attorney O'Mally on May 7, 1982 as indicated in U.S. Attorney Russoniello's April 19, 1982 letter.

10. Discovery that my request for bilingual voter information will involve me in an investigation by the United States Attorney, and the United States Immigration and Naturalization Service has caused me great anxiety and concern. I am deeply troubled over the fact that I, as well as other United States Citizens, will become targets of investigations for exercising our legal right to bilingual voter information.

11. I declare, under penalty of perjury, that the foregoing is true and correct and that if called as a witness, I would competently testify thereto.

Executed this 7th day of May, 1982 at San Francisco, CA.

/s/ JOSE J. OLAGUES

Jose J. Olagues

BEST AVAILABLE COPY

Oakland Tribune / EASTBAY TODAY May 1, 1982/Oakland, California

Secret voter probe bared

U.S. attorney sifts bilingual rolls for illegal aliens

By Carol Bonfell
Tribune Staff Writer

SAN FRANCISCO — The U.S. attorney's office here has launched a clandestine investigation of all non-English speaking persons in nine Northern California counties who have requested bilingual voting information for the coming election.

The purpose of the investigation is to keep aliens who are in the country illegally and permanent alien residents who are not eligible to vote out of the polling places next June, explained U.S. Attorney Joseph Russoniello.

The investigation will affect only Spanish and Chinese-speaking voters, because bilingual ballots have been authorized in only those two languages, according to the secretary of state's office.

Angry civil rights groups charge Russoniello is conducting a witch hunt which will intimidate bilingual citizens who have a right to vote.

The investigation began just days prior to "Operation Jobs," a five-day series of raids by the Immigration and Naturalization Service for illegal aliens at their places of employment.

Russoniello denied any connection between the two activities, but said his agency would share any information uncovered about undocumented workers with the INS.

"It is appalling and shocking to have an 'Operation Ballotbox' coming on the heels of 'Operation Jobs,'" said Dorothy Ehrlich, executive director of the American Civil Liberties Union of Northern California.

"This creates a chilling effect where people will be fearful of registering to vote if they do not speak the language.

"The U.S. attorney's office is abusing its power by targeting all non-English speaking voters as suspects in criminal activity," she said.

The ACLU will formally request more information about the investigation from Russoniello, Ehrlich said.

The investigation began April 19 when Russoniello sent letters to district attorneys in the nine counties in his office's jurisdiction which prepare bilingual voting materials — San Francisco, Contra Costa, Alameda, Santa Cruz, Monterey, San Mateo, Napa, Sonoma and Santa Clara — asking them to compile the names of all persons requesting bilingual voting information.

In the letter, Russoniello asked the district attorneys to keep the letters secret from the press and the public until a more appropriate time.

When the Oakland Tribune/Eastbay TODAY obtained information about the letters and questioned Russoniello, he explained the investigation in detail.

The district attorney is to get the names of the bilingual voters from the county registrar of voters and select, at random, 25 names from the list for investigation, Russoniello said.

Those 25 names will be checked through the INS computer list of naturalized citizens. Any person not shown as naturalized will be personally interviewed by a law enforcement representative, "probably from the local agencies," Russoniello said.

A person who registers to vote knowing he or she is ineligible is committing a felony, Russoniello said.

If the random sampling shows people did not know they were ineligible but were misinformed, efforts will be made to see if they were misled by registrars of voters or special-interest groups, he said.

If a special-interest group is intentionally misleading people about their eligibility, that group could also be prosecuted for fraud, Russoniello said.

At the very least, the investigation could lead to improved registration forms or letters to members of the target group explaining more fully the eligibility laws, he said.

Russoniello said he had wanted to keep the information from the press to avoid any premature speculation or conclusions.

"We may not find any pattern at all," he said. "This is not the time to castigate anyone."

Russoniello got the idea for the investigation from a similar voter fraud investigation conducted by the district attorney's office in Santa Clara County last year, he said. That investigation disclosed an estimated three thousand to five thousand bilingual persons had registered to vote who were ineligible, said Ray Cunningham, deputy district attorney in charge of the investigation of all types of voter fraud.

Cunningham said no one was prosecuted and the investigation was dropped because all those queried had believed they were eligible either because they had married American citizens or because they had lived in this country for decades.

"This is outrageous," said Henry Der, executive director of Chinese for Affirmative Action, a San Francisco-based rights group. "There is no evidence to indicate bilingual voters are even a problem."

Der, a member of the California State Bar's Board of Governors, said he believed the investigation was unconstitutional. "We (the affirmative action group) would encourage every district attorney not to participate in this witch hunt."

The Alameda County District Attorney's office sent Russoniello a 43-page computer printout with names of all bilingual voters in the county April 27, telling him to make his own random selection, according to a spokeswoman for the office.

William O'Malley, Contra Costa district attorney, sent Russoniello the 25 names as requested out of the 490 voters there who had requested bilingual ballots, his office said.

San Francisco District Attorney Arlo Smith did not respond to telephone calls.

According to the secretary of state's office, 132,000 Spanish speaking persons and 9,000 Chinese speaking persons requested bilingual ballots in the 1980 elections.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2102-SW

JOSE J. OLAGUES, ET AL., PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, ET AL., DEFENDANTS.

[FILED JULY 22, 1962]

DECLARATION OF LUIS DIAZ-INFANTE

I, LUIS DIAZ-INFANTE, declare as follows:

1. My name is LUIS DIAZ-INFANTE. I was born in El Grullo, Jalisco, Mexico. I am 48 years old and a naturalized citizen of the United States. I live at 425 Navajo Drive, Salinas, California 93906. I have lived at my current address 4½ years.

2. I have been employed by Johnson Associated, Inc., in Salinas, California as a mechanic's welder for the past 4 years. Before that I was a farmworker.

3. I was a permanent resident alien of the United States since August 25, 1960 until October 31, 1978, when I became a naturalized citizen. My main reason for becoming a U.S. citizen was to obtain the right to vote. I consider this a very precious right as it gives me the opportunity to express my point of view and to help myself, my family and my community.

4. I first registered to vote in March, 1979. I have voted at every primary and general election ever since. My wife and I are involved in the schools in our area and school board and other local elections are a primary concern to us. We are interested in electing persons that are sensitive to the needs of the children of farmworkers who are very often in need of bilingual instruction.

5. Although I speak and read English to a limited extent, I require interpreters as I would rather not depend on my poor English speaking ability in dealing with institutions or legal matters. By contrast, I am confident in my ability to speak, read, write and deal with important matters in Spanish, my native language.

6. Toward the end of May, 1982, I read an article in the Salinas Californian which talked about a federal investigation of voters who had requested foreign language ballots. Since my wife and I had both requested our ballots in Spanish, the news was somewhat alarming. My wife and I called an attorney with California Rural Legal Assistance to ask about the investigation. She told us that the Monterey County District Attorney had sent a list of 25 persons to the federal attorney in San Francisco but that the list was not available. She also told us that the matter had been taken to court and that the investigation may be illegal.

7. This week I heard that the District Attorney of this county would be investigating those people who had not been determined to be citizens. It is possible that my wife or I may be on the list. I think this investigation is wrong, since we had a right to request our ballots in Spanish, without the threat of a criminal investigation. We are citizens who have committed no crime. I do not think that any citizen should have to answer any questions of the District Attorney, simply because we didn't ask for a ballot in English.

8. I want to know whether I have a right to refuse to cooperate if I am one of the persons on the lists.

9. I have always respected and obeyed the laws of this country. But, I resent government interference with my right to privacy. It makes me lose confidence in our democratic government institutions which are supposed to protect its citizens, rather than subject us to discriminatory practices.

I declare under penalty of perjury, that the foregoing is true and correct.

Executed on this 16th day of July, 1982, at Salinas, California.

/s/ LUIS DIAZ-INFANTE
Luis Diaz-Infante

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2102-SW

JOSE J. OLAGUES, ET AL., PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, ET AL., DEFENDANTS.

[FILED JULY 22, 1982]

DECLARATION OF EVELIA DIAZ-INFANTE

I, EVELIA DIAZ-INFANTE, declare as follows:

1. My name is EVELIA DIAZ-INFANTE. I was born in El Grullo, Jalisco, Mexico. I am 47 years old and a naturalized citizen of the United States. I live at 425 Navajo Drive, Salinas, California 93906 where I have lived for the past 4½ years. I have lived in Salinas, California for 21 years.

2. I have been seasonally employed by Bud Antle, Inc. in Salinas as a celery packing shed worker since 1965. Before this, I worked in the fields in Salinas and other areas of California on a seasonal basis.

3. On August 25, 1960, I became a permanent resident alien of the United States. Although I have lived in the United States continuously since then, I speak, read, and write in my native tongue, Spanish. I am not as fluent in English and I feel more confident when speaking and reading in Spanish.

4. After becoming a permanent resident of the United States, I wanted to be an active member of my community. Through my involvement in the education of my children, I slowly began to learn about the workings of American institutions and my constitutional right to be

treated equaliy in this country. I became involved in parent groups in the schools my children attended and continue to take an active interest in educational matters. Recently, I was asked by members of the Mexican American community in Salinas to consider being a school board candidate in the district where I live.

5. In October of 1978, my husband and I both became naturalized U.S. citizens. Our primary motive for becoming citizens was that we would have the right to vote. At the first opportunity, we registered to vote. This was in March of 1979. We both voted in the June primaries that year. I studied the ballot carefully and was very prepared when I went to vote. I remember feeling proud, excited, and somewhat nervous. That year I voted in November and have voted every year ever since. When given the option to receive my voter information packet in Spanish, I will always request it as I am more fluent in Spanish. This year I received the Spanish language voter information packet.

6. On May 28, 1982 I read a short article printed in the Salinas Californian that dealt with an investigation of people who requested voter information in a language other than English. The article said that a list of 21 names of such people in Monterey County has been reviewed by the INS and that only 6 of those names had been found to be citizens. My husband and I called the CRLA office to ask someone about this investigation. One of the attorneys there told me that we should not worry that the matter had been taken to court and that she would keep us informed.

7. I now understand that the 15 people on the list submitted by Monterey County will be investigated and that that investigation has already begun.

8. I am very upset about the fact that my husband and I may be on the list and may be investigated by the District Attorney's office. I know I have nothing to fear but I do not want to be bothered in that way just because I requested my voter information in Spanish. I do not like to

be treated differently than other citizens who speak English. I consider this nothing less than discrimination against people who speak another language. Every time I experience something like this, I question whether my U.S. citizenship and right to vote are actually making any difference in our lives. This kind of action against us makes me want to protect myself in the privacy of my home, family, and friends and discourages my community involvement.

9. I am also concerned about the effect of this on other Mexican Americans in this area. Some of my friends have not become citizens because they do not think that their vote will make any difference. Hearing about this will only convince them of this. Others who are already citizens will probably not register to vote after hearing of this. As a result, the Mexican American community as a whole will suffer.

I declare under penalty of perjury that the foregoing is true and correct and was executed in Salinas, California.
DATED: July 15, 1982

/s/ EVELIA DIAZ-INFANTE
Evelia Diaz-Infante

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2102-SW

JOSE J. OLAGUES, ET AL., PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, ET AL., DEFENDANTS.

[FILED JULY 22, 1982]

DECLARATION OF LYDIA GONZALEZ

I, LYDIA GONZALEZ, declare as follows:

1. I am an attorney with the Migrant Farmworker Project of California Rural Legal Assistance, Inc., in Salinas, California.

2. On May 19, 1982, I accompanied Richard Criley, Juan Martinez and Pedro Lopez at a meeting with Monterey County District Attorney William Curtis.

As Monterey County was one of the nine northern California counties included in U.S. Attorney Joseph Russoniello's probe of foreign-born registered voters who requested bilingual ballots, we requested the meeting to discuss his office's cooperation with the probe.

3. Mr. Curtis indicated that to date, his office had called Ross Underwood, Monterey County Registrar, to obtain a list of 25 names of foreign born registered voters who had requested a foreign language ballot. He stated that he believed the names were obtained from the registrar by telephone and were submitted to the U.S. Attorney's office in San Francisco as requested. He added that his office did not keep a list of the names submitted. He stated that he expected to receive information on the

registrants from the U.S. Attorney's office, but did not know exactly when it would be sent.

4. We voiced our concerns about the probe and specifically, about his office's cooperation with the probe, as serious legal questions had been raised about its propriety. Moreover, we indicated that many people, such as Juan Martinez and Pedro Lopez, had recently focused their efforts on the registration of new Hispanic voters and that word of this investigation might have a chilling effect on these registrant's willingness to vote in the June primaries and on continued efforts to register Hispanic voters in Monterey County. We urged Mr. Curtis to discontinue any futher cooperation with the probe.

5. Mr. Curtis indicated that the only thing his office had done thus far was to send the requested list to Mr. Russoniello's office and that he did not anticipate that anything more would be done. If he should receive information indicating a serious problem in Monterey County, however, he would investigate.

6. On May 28, 1982, I read an article in the Salinas Californian indicating that of the 21 names on the list sent by the Monterey County District Attorney's office to Mr. Russoniello's office, only six were positively determined to be legally registered to vote.

7. On or about May 31, 1982, I called Mr. Curtis to determine what his office intended to do after receiving this information. As Mr. Curtis was not in, I spoke to John Phillips, the Assistant District Attorney, who indicated that their office intended to conduct an investigation as soon as their bilingual investigators were free.

8. On the following week, I spoke to Mr. Curtis who indicated that before pursuing the investigation, they had requested from the Monterey County Counsel's office a determination as to possible legal impediments.

9. On July 7, 1982, I called Mr. Curtis again to ask whether his office was going ahead with the investigation.

He stated that his office had begun the investigation, but that he was unaware of the details since he had been out of his office for a week and had just retuned. I then requested a copy of the list of 15 people who would be investigated and he denied my request.

I declare under penalty of perjury that the foregoing is true and correct and that if called as a witness, I would competently testify thereto.

Executed on this 16th day of July, 1982, at Salinas, California.

/s/ LYDIA GONZÁLEZ
Lydia González

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2102-SW

JOSE J. OLAGUES, ET AL., PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, ET AL., DEFENDANTS.

[FILED JULY 22, 1982]

DECLARATION OF JUAN D. MARTINEZ

I, JUAN D. MARTINEZ, declare as follows:

1. My name is JUAN D. MARTINEZ, I live at 737 Beldon Street, Gonzales, County of Monterey, California.

2. In 1980 and 1981 I worked with a group of volunteers in the Salinas Valley involved in organizing voter registration committees in Castroville, Salinas, Gonzales, Chualar, Soledad, Greenfield, King City and San Lucas.

3. The work of the committees was to educate people about voting and to register eligible voters. This was done by going door to door in each of the communities in the Salinas Valley. Our 1980 and 1981 efforts effected the registration of over 3,000 people, most of which were Spanish surnamed.

4. I recruited volunteers to register voters and coordinated the activities of the drive. We had about 150 volunteers. I also registered thirty voters, twenty-nine of whom were Spanish surnamed.

5. Each one of the committees was trained in registering voters and in training other volunteers to register people.

6. The volunteers were also trained by Ross Underwood from the Monterey County Election Department. Mr. Underwood visited with each and every group that was involved in this process. In addition to giving this training, Mr. Underwood also swore in over 100 deputy registrars throughout the Salinas Valley.

7. Most of our work was in Hispanic neighborhoods. Our first question was whether the person was already registered to vote. If the answer was "no," we asked whether the person was a citizen. The next question was whether they were on parole or ex-felon.

8. Volunteers were encouraged to explain to voters about the availability of bilingual ballots.

9. I found that foreign-born citizens needed extra-encouragement to register, that they knew less about their rights than other citizens did, and that the availability of Spanish language ballots was an incentive for them to register.

10. In May of 1982, I heard from other volunteer registrars that people were going to be investigated for possible voter fraud and that voter registrars would also be investigated.

11. I am very upset at our local officials that are cooperating with an investigation that has the effect of a scare tactic. This only serves to discourage people from registering to vote, voting, and registering other voters.

12. I am angry that only the non-English speaking have been singled out for this investigation. I can not help but wonder whether this is a deliberate attempt to discourage minorities to use their voting rights. It was hard enough trying to convince people that their vote can make a difference before this investigation started.

13. Now it will be even harder to get volunteers to help in the effort to get eligible Hispanics to participate in the electoral process in the county. I think this investigation will discredit our voter registration drive in the community.

I declare under penalty of perjury that the foregoing is true and correct and was executed in Salinas, California.

Dated: July 16, 1982.

/s/ JUAN D. MARTINEZ
Juan D. Martinez

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2102-SW

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED; ET AL., PLAINTIFF,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY, AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA; ET AL., DEFENDANTS.

[FILED JULY 22, 1982]

DECLARATION OF RUDOLPH G. RODRIGUEZ

I, RUDOLPH G. RODRIGUEZ, declare as follows:

1. That my name is RUDOLPH G. RODRIGUEZ and I currently reside at 256 Sierra Drive, Walnut Creek, California 94596. I have resided in Contra Costa County for 10 years.

2. That I am active in the political affairs of Contra Costa County as a member of the Hispanic Coalition for Human Rights.

3. That on behalf of the Hispanic Coalition for Human Rights I spoke with Contra Costa County District Attorney William O'Malley on May 1, 1982. At that time I initiated a conversation with the District Attorney regarding the investigation of persons who had requested bilingual ballots. Since May 1, 1982, I have remained in contact with the District Attorney and the Contra Costa County Registrar of Voters Lon Underwood with regard to the investigation and have obtained information and documents relating to the investigation from them.

4. Specifically, on May 28, 1982 I spoke to District Attorney O'Malley, and in the course of our conversation he indicated that his office had received a letter from United States Attorney Russoniello requesting interviews of certain Contra Costa residents who had been identified as part of the bilingual voters investigation. District Attorney O'Malley also said that Registrar Underwood had that letter.

5. The same day, I called Registrar Underwood's office. Underwood was out, and I spoke to his assistant Bob Delavati. Mr. Delavati offered to provide me with a copy of the letter from the United States Attorney.

6. Later the same day, May 28, 1982, I went to Mr. Delavati's office and picked up a copy of the letter from Mr. Russoniello to Mr. O'Malley. A copy of that letter is attached hereto as Exhibit A.

I declare, under penalty of perjury, that the foregoing is true and correct and that if called as a witness, I would competently testify thereto.

Executed this 21st day of July 1982 at Walnut Creek, California.

/s/ RUDOLPH G. RODRIGUEZ
Rudolph G. Rodriguez

Exhibit A

U.S. Department of Justice

United States Attorney
Northern District of California

16th Floor Federal Building – Box 36055
450 Golden Gate Avenue
San Francisco, California 94102

Branch Office
675 N. First Street, Suite 508
San Jose, California 95112

May 26, 1982

Honorable William A. O'Malley
District Attorney
Contra Costa County
Post Office Box 670
Courthouse
Main and Court Street
Martinez, California 94553

Re: Primary Election: June 8, 1982 –
Possible Inappropriate Voter Registration
of Aliens

Dear Mr. O'Malley:

I refer you to my letter to you dated April 19, 1982 and our subsequent written and telephonic communications regarding the above-captioned subject.

INTRODUCTION

Let me express my appreciation to you and to your staff and your colleagues in the County Registrar's Office without whose assistance and cooperation we would not

have been able to progress as far as we have in determining whether a problem exists that requires further action.

CONCLUSION

I regret but am compelled to say that in my judgment there *is* a serious problem that demands further attention.

ENCLOSURES

Enclosed find the following materials:

1. A spread sheet showing the overall statistical data developed from the respective submissions and the follow-up performed (an explantion of certain critical aspects follows).
2. A printout list of the information developed specifically with respect to your submission.
3. A copy of my May 6, 1982 letter to Secretary of State Eu stating my investigative objectives, the scope of the investigation, and a recommendation for modifying the Registration Affidavit format to minimize the apparent confusion registrants have faced and to eliminate fraud.
4. An interview sheet designed to elicit needed information regarding (a) eligibility to vote and (b) circumstances surrounding the involved registration.

THE SPREAD SHEET

Seven of the nine counties submitted information substantially in accordance with my April 19 request. Santa Cruz provided the names of over seventy persons who asked for bilingual voting materials but no birth dates. As soon as we receive the additional information we will be able to analyze the data we develop from the appropriate record check. San Francisco submitted seventy names; thirty-five of those represented U.S. born persons so there was no need to find out how many of these were U.S. citizens, presumably all were; of the other thirty-five, three re-

quested voting material in languages other than English and they are included in the analysis. The other names submitted were of little use in identifying any present problem of registering persons unlawfully.

Of the 168 names submitted for which bilingual voting materials were requested, 55 (37%) were positively identified as naturalized citizens, 45 (29%) were identified either positively as illegal aliens, probably legal permanent residents (LPRs) or possibly either illegal aliens or LPRs. For 68 persons (39.9%) neither the INS nor the FBI Identification Division had any record of these persons.

The spread sheet shows that further federal record checking is being done in our effort to further identify persons in columns No. 4, 5 and 6.

The absence of any record in either the FBI or INS systems is not conclusive that the person is ineligible to vote but it is presumptive of that fact for the reason that until February 1982 all persons who were fingerprinted in the course of pursuing naturalization had their fingerprints forwarded to the Identification Division of the FBI where they were permanently stored. If their fingerprints are not found in the Identification Files, a strong presumption exists that they have not been naturalized. This does not, of course, eliminate the possibility that they have "derivative citizenship" acquired because one or both parents were U.S. citizens and they acquired citizenship automatically thereby, but the interviews should establish such a fact, if it is a fact.

THE INTERVIEW

a) *Conducting of Interviews*

There is not now any reason to believe that any of the persons registered to vote who are subjects of interviews have deliberately made a false statement regarding their eligibility though such evidence may develop later.

If for any reason you are unable to conduct the interviews I would appreciate your earliest advice of this fact so other arrangements can be made to get this done.

b) *The Interview Sheet*

For consistency and to facilitate the obtaining of information I recommend you use the Interview Sheet enclosed. It is self-explanatory and focuses on (a) the basis claimed for citizenship, (b) the name of the person at the time of naturalization, (c) the date and location of naturalization, (d) identification of any documents supporting the claim of citizenship and, in the case of persons who are not citizens (e) the circumstances surrounding their registering to vote.

PRESS ADVISORY

You will recall that I earlier advised by April 19 letter that I saw no reason to issue any press advisory until after the interviews were conducted (page 3, paragraph 6), but delaying any statement will not be possible now in light of the extensive coverage this investigation has already received. I propose to advise the media on Friday, May 28, 1982 what the preliminary results are and that further investigation has been requested and is being undertaken. Any further thoughts on this matter would be appreciated.

Even on the basis of the preliminary review and before deciding that the "NO RECORDS" are, for the most part, ineligible to vote, I suggest you advise your respective Registrars of the results to alert them to the facts.

I will be in touch with you further by phone to discuss any other appropriate action.

Very truly yours,

/s/ JOSEPH P. RUSSONIELLO

Joseph P. Russoniello
United States Attorney

Enclosures

COUNTY	TOTAL # OF NAMES SUBMITTED (1)	TOTAL # REQ'ING BILINGUAL BALLOTS (2)	POSITIVE IDENT AS CITIZENS (3)	LPRs (4)	ILLEGAL ALIEN (5)	OTHER QUESTIONABLE (6)	PHIB. MILITARY DEPENDANTS (7)	NO FBI OR INS RECORD (8)	FED CHECK PENDING (9)	TO BE INTERVIEWED (10)
ALAMEDA	32	32	10	4	1	5	0	12	5	22
CONTRA COSTA	25	25	12	1	1	3	0	8	2	12
SAN MATEO	25	25	8	2	0	5	0	10	5	17
SANTA CLARA	25	25	8	1	1	0	0	15	1	17
NAPA	23 (22)	23 (22)	8 (7)	3	1	4	0	7	2	16
MONTEREY	21	21	6	5	0	1	0	9	1	15
SONOMA	16 (15)	15	4	3	1	2	0	6 (5)	1	11 (10)
SAN FRANCISCO	35	3	0	0	0	1	0	2	0	3
TOTALS		168	55	19	5	21		68		
			12.7% of total		45			39.9% of total		
					27.4% of total					

INFORMATION FROM COUNTY

Name	DPOB
ALEJANDRE, Ramon	01/24/45 Mexico
ANDAZOLA, Jesus Jose	01/14/50 Mexico
APARICIO, Maria D.	03/05/45 El Salvador
ARBELAEZ, Hernando	06/25/18 Colombia
BERNAL, Lucille Amaral	08/22/11 Mexico
CAMPO, Mirta ✓	06/22/39 Argentina
MARTINEZ, Armando Ortiz	01/01/57 Mexico
NORBABY, Teresa C. ✓	10/19/39 Colombia
OLAGUES, Jose J.	02/12/45 Mexico
ORNELAS, Pedro	03/15/61 Mexico
PALLARES, Mercedes Alvarez ✓	07/26/03 Ecuador
PENA, Florencio Flores	12/19/10 Mexico
PENA, Irma ✓	12/15/59 Mexico
PEREZ, Victor Manuel	06/29/55 Mexico
PLATA, Arnoldo Flores ✓	10/07/36 Mexico
REYES, Crispina Maria ✓	10/30/48 Mexico
RIBEIRO, Enriqueta ✓	09/23/33 Mexico
MARROQUIN, Edgar Dario Rivas	09/25/59 Guatemala
RODLEDO, Josue P.	08/21/05 Mexico

A COUNTY

USINS RECORDS*

Name	File No.	Status
ALEJANDRE-Navarro, Ramon	A23 067 614	Illegal
ANDAZOLA, Jesus Jose	A30 581 251	USC
APARICIO, Maria Delia	A13 690 670	USC
ARBELAEZ, Hernando	A17 293 135	USC
BERNAL, Lucille Anaral	A01 202 452	USC
NO RECORD		
MARTINEZ-Ortiz, Armando	A19 206 027	USC
NO RECORD		
OLAGUES, Jose J.	A12 262 186	USC
ORNELAS, Pedro	A21 357 176	USC
NO RECORD	(2)	
PENA, Florencio F.	A01 944 798	USC
NO RECORD		
PEREZ-Perez, Victor Manuel	A30 773 620	USC
NO RECORD	(1) A 22973	
NO RECORD		
NO RECORD		
MORROQUIN, Edgar Dario Rivas	A24 254 106	LPR-File in Los Angeles
ROBLEDO-Perez, Josue	A04 949 269	USC

CONTRA COSTA COUNTY

ROBLES, Jaime A. ✓	05/26/37	Mexico	ROBLES-Lizarraga, Jaime Armando	A34 531 062	LPR
RODRIGUEZ, Maria Gloria	10/21/33	Guatemala	RODRIGUEZ, Maria Gloria P.	A10 483 762	USC
RODRIGUEZ, Roberto ✓ ANGELES ARELLANO RODRIGUEZ	02/15/59	Mexico	NO RECORD		(1) NO CIVIL, NO FILE FOUND
RONQUILLO, Arageli ✓	02/18/50	Mexico	NO RECORD		
RONQUILLO, Facundo ✓	11/27/50	Mexico	NO RECORD		
SOTO, Maria Mercedes ✓	10/15/00	Chile	SOTO-SANCHEZ, Maria Mercedes	A13 116 378	(1) Index Card only, file located.

*NOTE: DOB is omitted to save space. Unless noted, DOB in USINS Records corresponds exactly to County information.

LPR = Lawful Permanent Resident
USC = United States citizen

✓ RECOMMEND INTERVIEW

BEST AVAILABLE COPY

May 6, 1982

Honorable March Fong Eu
Secretary of State
State of California
Sacramento, California 95814

Dear Secretary Eu:

This will acknowlege receipt of your letter of May 4, 1982. I wholeheartedly share with you appreciation of the fact that the right to vote is one of the most precious rights guaranteed by the Constitution of the United States to all citizens and I join with you in your commitment to see to it that all persons of whatever ethnicity are guaranteed the right to vote if they choose to exercise it.

Several of the matters and concerns expressed in your letter require a response and I apologize if my remarks are redundant to what I have earlier said in attempting to explain to the media and to concerned citizens the objectives of this inquiry and the reasons for it.

In the first place, the investigation we undertook in conjunction with local District Attorney's offices was prompted by the investigation conducted by the District Attorney in Santa Clara County in 1981, which itself focused on non-English speaking persons who had registered to vote. The results of that limited probe suggested to us that a random sample survey of similarly situated registrants in other counties within the Northern District of California would be appropriate. The survey was limited to a review of public records and had as its sole purpose determining whether the unacceptable conditions uncovered during the Santa Clara probe were peculiar to that district or more widespread. It was made clear to the District Attorneys, and none seemed confused by our communication, that

we did not contemplate prosecution of any registrants for the reason that the Santa Clara probe suggested, as you correctly noted, that the registrants' conduct was innocent and most probably the result of ignorance or misinformation. We were concerned, and continue to be concerned, that if a problem of widespread inappropriate registration exists, there may be a pattern which suggests that certain particular registrars, characterized by the San Francisco Registrar of Voters Jay Patterson as "bounty hunters," might be deliberately and wilfully misrepresenting the prerequisites for voter eligibility in violation of 42 U.S. Code 1973i(c) and (d).

As you know, by agreement between the involved District Attorneys and this office and specifically because we saw no reason to signal an alarm without knowing more of the facts of possible impropriety, no one involved in the investigation made any public pronouncement that such a probe was underway. When the press did become aware of the investigation and made inquiry of the writer I reported as succinctly and clearly as I could the aforestated objectives and the limitations of the inquiry. Unfortunately, according to the reporter who wrote the first story who apologized to me later, there was considerable re-write to her story over which she had no control that resulted in an initial misimpression that this investigation was somehow linked to a recent Immigration and Naturalization Service probe of illegal aliens, that it was secret and that criminal prosecution against registrants was contemplated. Various groups picked up on this first article and, in my judgment, made precipitous and unwarranted accusations concerning the chilling effect the investigation would have on voter registration and/or voting by non-English speaking persons without first even inquiring of this office as to our true intent and objective. If anything adversely impacts a person's disposition to register and later to vote, it will not be this investigation, but the hysteria which has been

whipped-up by various special interest groups. And there is an inherent contradiction to this accusation . . . if persons have so little facility with the English language that voting materials in other languages are necessary to fully inform them so as to permit them the opportunity to cast an intelligent vote, how can these same persons be adversely impacted by an investigation or comments which have been in the English language only? If they are sufficiently versed in the English language to understand what has been said in the press in the last several days, then they most certainly must come away from exposure to that media with the clear belief and understanding that this investigation does not focus in on or intrude upon citizens who have acquired the right of citizenship by birth or naturalization.

Finally, I applaud your determination to take steps "to educate voter registration card distributors and the public generally that only United States citizens can register and vote," but I most respectfully suggest to you that merely printing a warning on the affidavits themselves that they are to be used by U.S. citizens only may not be enough to inform the prospective registrant who is foreign born that citizenship can only be acquired by birth or naturalization. It would certainly be preferable, and I do not intend to preempt your responsibilities in this regard in so saying, that the affidavit forms be changed to accommodate the foreign born person and his needs by providing a space where he can indicate the data of naturalization and city of naturalization. Many such persons have reported over the years the significant impression the naturalization proceeding has had on their lives, many considering it as important a date as their birthday, wedding day, etc. I understand from my Chief Assistant William T. McGivern who has been in touch with your assistant Tony Miller that so amending the affidavit was at one time contemplated by your office. If so, it is unfortunate that the idea was not

pursued further because inclusion of such a section on the affidavit would be of some assistance to the registrant who wasn't sure whether he was a citizen or not, but knew he had not been through the naturalization process so that that section would necessarily be left blank which would entitle the Registrar of Voters to either reject the affidavit or request the registrant to provide further specific additional information. Absent such a provision, the County Registrar of Voters is unable to determine from the face of the affidavit whether the foreign born person has been naturalized or not. I trust that the foregoing answers your inquiry. If I may be of any further assistance to you or you require any additional information, feel free to contact me at your convenience.

Very truly yours,

/s/ JOSEPH P. RUSSONIELLO

Joseph P. Russoniello
United States Attorney

INTERVIEW SHEET

NAME _____ DATE OF INTERVIEW _____

MAIDEN NAME (if applicable) _____

ARE YOU A CITIZEN OF THE U.S. YES ___ NO ___ NOT SURE ___

IF YOU ARE A CITIZEN, HOW DID YOU ACQUIRE IT?

a) BORN IN U.S. _____

b) NATURALIZATION _____

c) OTHER (explain) _____

_____

_____

_____

_____

IF BY NATURALIZATION,

a) FULL NAME WHEN NATURALIZED _____

b) PLACE WHERE NATURALIZED _____

c) YEAR OF NATURALIZATION _____

d) ANY DOCUMENTS? DESCRIBE _____

_____

IF NOT A CITIZEN, BUT REGISTERED TO VOTE,

a) DID SOMEONE ASSIST YOU IN REGISTERING? YES _____ NO _____

b) IF YES, WHO? _____

c) IF YES, BUT DON'T KNOW NAME OF PERSON, WHEN AND WHERE (e.g. door to door campaign, on street, supermarket, dance, political event, etc.)? _____

_____

d) DID PERSON IDENTIFY ORGANIZATION OR AFFILIATION? _____

e) IF SO, WHAT ORGANIZATION? _____

_____

NAME OF INTERVIEWER

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2102-SW

JOSE J. OLAGUES, ET AL., PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, ET AL., DEFENDANTS.

[FILED JULY 22, 1982]

DECLARATION OF MARIA VIRGINIA SALMON

I, MARIA VIRGINIA SALMON, declare as follows:

1. My name is MARIA VIRGINIA SALMON. I live in Salinas, Monterey County, California.

2. During 1980 and 1981 I worked as a volunteer with an unnamed association of individuals who organized to register voters within Monterey County.

3. I worked mostly in the Alisal area of Salinas, California. The Alisal area is comprised mostly of Spanish-surnamed people.

4. In 1981, I registered approximately 75 people and in 1982, I registered approximately 30 people.

5. The 1982 registration drive began on April 3, 1982 with a kickoff rally and a training session.

6. The registration was conducted on a door-to-door basis. The first two questions I asked every person were: "Are you registered to vote?" and, if the answer was no, "Are you a United States citizen?" Everybody that I registered indicated that they were citizens.

7. I told all Spanish-speaking persons about the availability of bilingual ballots and encouraged them to request bilingual ballots if it would enable them to understand more fully what their ballot choices were.

Approximately 20 out of the 105 people I registered requested bilingual ballots.

8. In May 1982, I read a newpaper article indicating that the United States Attorney's office, with the help of the local district attorneys, was conducting an investigation of people who had requested bilingual ballots. The article indicated voters in four counties, including Monterey County, were being investigated for possible voter fraud. A later article indicated that the focus of the investigation was going to be on people who helped register voters.

9. I am outraged that the U.S. Attorney and other officials are implying that I, and others who helped register voters, deliberately tried to get non-citizens to register. I am also angry that they may be harassing some of the people that I helped register.

10. I will continue to try to get people to register for the November election although I am certain it is going to be more difficult to get people to use bilingual ballots even in those instances where a bilingual ballot would help voters understand the issues better.

I declare under penalty of perjury that the foregoing is true and correct and was executed in Salinas, California.
DATED: July 13, 1982

/s/ MARIA VIRGINIA SALMON
Maria Virginia Salmon

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2102-SW

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED; HISPANIC COALITION FOR HUMAN RIGHTS; CHINESE FOR AFFIRMATIVE ACTION; AND SAN FRANCISCO LATINO VOTER REGISTRATION EDUCATION PROJECT, ON BEHALF OF THEMSELVES AND ALL OTHERS SIMILARLY SITUATED, EVELIA DIAZ-INFANTE, ON BEHALF OF HERSELF AND ALL OTHERS SIMILARLY SITUATED: JUAN D. MARTINEZ, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED; PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY, AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA; WILLIAM A. O'MALLEY, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR CONTRA COSTA COUNTY; LON UNDERWOOD, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR CONTRA COSTA COUNTY; ARLO SMITH, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SAN FRANCISCO COUNTY; JAY PATTERSON, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SAN FRANCISCO COUNTY; JOHN MEEHAN, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR ALAMEDA COUNTY; JAMES RIGGS, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR ALAMEDA COUNTY; WILLIAM D. CURTIS, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR MONTEREY COUNTY; ROSS UNDERWOOD, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR MONTEREY COUNTY; JAMES D. BOITANO, INDIVIDUALLY

AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR NAPA COUNTY; BARBARA GREENSLAKE, INDIVIDUALLY AND IN HER CAPACITY AS REGISTRAR OF VOTERS FOR NAPA COUNTY; KEITH SORENSON, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SAN MATEO COUNTY; MARVIN CHURCH, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SAN MATEO COUNTY; ARTHUR DONNER, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SANTA CRUZ COUNTY; RICHARD (DICK) NEAL, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SANTA CRUZ COUNTY; GENE L. TUNNEY, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SONOMA COUNTY; EVE LEWIS, INDIVIDUALLY AND IN HER CAPACITY AS REGISTRAR OF VOTERS FOR SONOMA COUNTY; LOUIS BERGNA, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SANTA CLARA COUNTY; GEORGE A. MANN, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SANTA CLARA COUNTY; DAVID ILCHERT, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT DIRECTOR OF THE IMMIGRATION AND NATURALIZATION SERVICE IN THE SAN FRANCISCO BAY AREA, DEFENDANTS.

CIVIL RIGHTS
SECOND AMENDED COMPLAINT
CLASS ACTION THREE-JUDGE COURT

I

INTRODUCTION

1. By this action plaintiffs seek to enjoin federal and local public officials from engaging in discriminatory practices and policies aimed at preventing Hispanic-Americans and Chinese-Americans from participating in the electoral process. These illegal practices and policies have specifically focused on persons and groups who have requested and encouraged the use of bilingual election

materials provided under federal and state law. Despite defendants' knowledge that these practices and policies would violate plaintiffs' constitutional rights, defendants have steadfastly refused to halt a clandestine and discriminatory investigation of citizens of Hispanic and Chinese descent. Such practices, unless enjoined and declared illegal under the First, Fifth, Fourteenth and Fifteenth Amendments to the United States Constitution, the Voting Rights Acts of 1870, 1965 and 1975, as well as Article I, Section 1 of the California Constitution, will cause not only irreparable injury to these individuals but effectively deny their right to participate in the electoral process to vote.

II. JURISDICTION

2. Jurisdiction of this court is invoked pursuant to 28 U.S.C. § 1331 and § 1343 (1)(3)(4); the rights sought to be protected are guaranteed by the First Amendment, Fifteenth Amendment, the equal protection and due process clauses of the Fourteenth and Fifth Amendments, as well as Title VI of the 1964 Civil Rights Act, 42 U.S.C. § 2000(d), and 42 U.S.C. §§ 1971, 1973 *et. seq.*, and 1983. Jurisdiction is also invoked pursuant to 42 U.S.C. § 1971(d) and § 1973.(f) which grant jurisdiction to district courts in actions seeking to enforce voting rights; 28 U.S.C. § 2284 and 42 U.S.C. § 1973c which provide for the convening of a three-judge court in actions under 42 U.S.C. § 1973c; 28 U.S.C. § 2201 which provides for actions for a declaratory judgment; and, 28 U.S.C. § 1361 since this is an action to compel an officer of the United States to perform a duty owed to plaintiffs. Plaintiffs also invoke the pendent jurisdiction of the court in connection with their claim that defendants' actions violate the right to informational privacy under the California Constitution, Article I, Section 1.

III. PARTIES

Plaintiffs

3. Plaintiff JOSE J. OLAGUES is a United States Citizen and a resident of Concord, California. He was born in Mexico and became a naturalized citizen of the United States in 1965. He is able to understand, read, write, and speak English and he is fully conversant and literate in his native tongue which is Spanish. Plaintiff Olagues has requested the use of bilingual voting election materials, and has participated in California's electoral process since 1966.

4. Plaintiff Hispanic Coalition for Human Rights is a broad based non-profit association of Hispanic organizations and persons of Mexican American descent residing in the San Francisco Bay Area. The Coalition's basic objective is to secure the civil rights of Hispanics, particularly with respect to voting and immigration matters. As such, its members are vitally interested and affected by the actions of defendants in investigating persons who have requested election materials in languages other than English. The Coalition represents such groups as the Mexican American Political Association, the National La Raza Lawyers Association, the League of United Latin American Citizens (LULAC), and other Hispanic groups, all of whom have members affected by the activities alleged herein. In attempting to encourage Americans of Hispanic descent to register and vote, the members of the coalition have aided and advised persons of the availability of bilingual election materials. The coalition members also, from time to time, utilize bilingual election materials.

5. Plaintiff Chinese For Affirmative Action is a San Francisco based non-profit, non-partisan, tax-exempt voluntary membership organization dedicated to protecting the rights of Chinese Americans and to promoting equal employment opportunities for members of the

Chinese community. Founded in 1969, Chinese for Affirmative Action has members who are non-English speaking citizens who utilize bilingual election materials and whose voting rights are protected by the 1975 amendment to the Voting Rights Act. Chinese for Affirmative Action has expended considerable time, funds and resources to monitor compliance by the San Francisco Registrar of Voters with respect to the bilingual election provision of the Voting Rights Act and to ensure that its members partake of election materials in a language other than English. Chinese for Affirmative Action members have been intimidated and discouraged from participating in the June 1982 primary and in turn have been dissuaded from encouraging prospective Asian-American voters from registering and voting. The actions by defendants directly undermine and prevent Chinese for Affirmative Action from carrying out its objectives.

6. Plaintiff San Francisco Latino Voter Registration Education Project (hereafter "Latino Voter Project") is a coalition of San Francisco Hispanic groups that is presently conducting a non-partisan registration drive aimed at registering as many Hispanics as possible before the June primary election and thereafter the national election in California. The Latino Project is vitally interested in having Hispanic citizens partake of the electoral process and exercise their legal right to register and vote. The Project, with its coalition members, is vitally interested in the activities herein alleged, and stands to be affected by the investigation and intimidation of persons who request bilingual ballots. The actions of defendants directly undermine and prevent the Latino Voter Registration Education Project from carrying out its objectives.

7. Plantiff Evelia Diaz-Infante is a United States citizen and a resident of Salinas, Monterey County, California. She was born in Mexico and became a naturalized citizen of the United States in 1978. She has

participated in the electoral process in California since becoming a naturalized citizen. Because she is more fluent in Spanish than in English, she had requested and used bilingual election material, and received the Spanish language packet in 1982. Plaintiff Diaz-Infante fears that she has been, or may be subjected to the investigation and verification procedures implemented in Monterey County against persons who request bilingual ballots, as complained of herein.

8. Plaintiff Juan D. Martinez is a United States citizen and a resident of Gonzalez, Monterey County, California. Since 1980, he has worked with a group of volunteers in orgainizing voter registration committees in Monterey County for the purpose of registering voters. These committees work primarily in Hispanic neighborhoods, and many of the prospective registrants prefer to use bilingual election materials in Spanish. A principal part of the work of plaintiff Martinez and of the voter registration committees is to educate people in these communities about the electoral process and the use of bilingual voting materials. The actions of defendants complained of herein have undermined and interfered with the efforts of plaintiff Martinez and the persons with whom he has associated to register voters and to encourage other people to volunteer to register voters.

DEFENDANTS

9. Defendant JOSEPH P. RUSSONIELLO is sued individually and in his official capacity as the United States Attorney for the Northern District of California.

10. Defendants JOHN MEEHAN, WILLIAM A. O'MALLEY, WILLIAM D. CURTIS, JAMES D. BOITANO, ARLO SMITH, KEITH SORENSON, ARTHUR DONNER, LOUIS BERGNA and GENE L. TUNNEY are all sued individually and in their official

capacities as District Attorneys for the Counties of Alameda, Contra Costa, Monterey, Napa, San Francisco, San Mateo, Santa Cruz, Santa Clara and Sonoma, respectively.

11. Defendants JAMES RIGGS, LON UNDERWOOD, ROSS UNDERWOOD BARBARA GREENSLATE, JAY PATTERSON, MARVIN CHURCH, RICHARD NEAL, GEORGE MANN and EVE LEWIS, are all sued individually and in their official capacities as Registrars of Voters for the Counties of Alameda, Contra Costa, Monterey, Napa, San Francisco, San Mateo, Santa Cruz, Santa Clara, and Sonoma, respectively.

12. Defendant DAVID ILCHERT is sued individually and in his official capacity as District Director for the Immigration and Naturalization Service for the San Francisco Bay area.

IV

CLASS ACTION ALLEGATIONS

13. Plaintiffs bring this action as a class action under Rule 23(b)(2). There are five classes.

a) As a first class, Plaintiff Jose J. Olagues and the class he represents are Hispanic American and Chinese American persons of foreign birth who have registered to vote or have voted within the last five years and have indicated a preference for utilizing election materials in a language other than English. Said class is limited to those individuals who reside in the following counties: Contra Costa, Alameda, San Francisco, Santa Cruz, Monterey, San Mateo, Napa, Sonoma and Santa Clara, and who, as a result of the actions taken by defendants, have been or will be subjected to governmental investigations and possible unwarranted criminal prosecutions by virtue of having their names culled from voter registration lists and sub-

mitted to governmental authorities because they have requested election materials in a language other than English.

b) As a second class, plaintiffs Jose J. Olagues, Hispanic Coalition for Human Rights, Chinese For Affirmative Action and San Francisco Latino Voter Registration Education Project represent those Hispanic-American and Chinese-American individuals who have voted or expressed a desire to vote in future elections and who, as a result of the actions taken by defendants, will either forego from expressing a desire to utilize election materials in a language other than English, or decline to participate in the electoral process.

c) As a third class, plaintiffs Hispanic Coalition for Human Rights, Chinese for Affirmative Action and San Francisco Latino Voter Registration Education Project represent those persons or groups acting individually or in concert with others who are involved in voter education projects with Americans of Hispanic or Chinese descent and by virtue of such activity inform individuals of the availability of bilingual election materials. Said class is composed of all such groups and individuals who will be subject to investigation by virtue or defendants activities.

d) As a fourth class, plaintiff Evilia Diaz-Infante and the class she represents are Hispanic American persons in Monterey County who have registered to vote or will seek to register to vote in the future, and have requested or will request to use bilingual election materials, and whose right to vote has been abridged and interfered with on the basis of their race and their language minority status by the actions and practices of defendants Curtis, Ross Underwood, Russoneillo and Ilchert.

e) As a fifth class, plaintiff Juan D. Martinez and the class he represents are those persons and groups, acting individually or in concert with others, who are involved in voter education and registration in Monterey County

directed towards Hispanic-Americans and who counsel and advise persons concerning the availability of bilingual ballot materials, and whose efforts are being deterred and interfered with by the actions of defendants Curtis, Ross Underwood, Russoniello and Ilchert.

14. The requirements of Rule 23 of the Federal Rules of Civil Procedure are met herein in that:

a) The classes sought to be certified are so numerous that joinder of all members is impracticable.

b) There are questions of law and fact common to members of both classes, and such questions clearly predominate over any questions affecting only individual members of both classes.

c) The claim of the representative plaintiffs are typical of the claims of each class.

d) The representative plaintiffs will fairly and adequately protect the interests of each class.

e) The parties opposing the classes have acted on grounds generally applicable to each class, thereby making appropriate final injunctive and declaratory relief with respect to each class as a whole.

V

FACTUAL ALLEGATIONS

15. On April 19, 1982 defendant Russoniello initiated a secret probe of Hispanic-American and Chinese-American voters by sending a letter to nine Bay Area District Attorneys (a copy of which is attached as Exhibit A). The probe sought to investigate citizens of Hispanic and Chinese descent who had falsely registered and which may affect, in defendant Russoniello words, "the June election such that the results would be subject to court challenge."

16. This investigation was allegedly precipitated by a February 1981 study conducted by defendants Santa Clara County District Attorney and County Registrar of Voters. This study allegedly disclosed that of a test sample of 100 newly registered persons of foreign birth in Santa Clara county, several individuals were determined not to be U.S. citizens. The study was not revealed to the public nor was it made available to defendant district attorneys or registrars in initiating the investigation.

17. The April 19, 1982 letter requested each District Attorney and Registrar of Voters in the counties of Alameda, Contra Costa, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz and Sonoma to compile a list of Hispanic-American and Chinese-American persons within those counties whose recent affidavits of registration reflect (1) a foreign country as the place of birth, and (2) a preference for election materials in a language other than English.

18. The defendant District Attorneys were then to forward twenty-five "selected" names to defendant Russoniello for transmittal to defendant Ilchert. After a scan by the United States Immigration and Naturalization Service to determine whether such Hispanic-Americans and Chinese-Americans were eligible to vote, persons for whom there exists some doubt as to their voter eligibility would be referred back to defendant District Attorneys for investigation.

19. The actions of defendants to date have followed the procedures and time table stated in defendant Russoniello's letter. Accordingly, names of individuals who have requested bilingual ballots have been transmitted by defendant District Attorneys and defendant Registrars of Voters to defendant Russoniello. These names of persons have been reviewed by defendant Ilchert and the Immigration and Naturalization Service, and these

Hispanic-Americans and Chinese-Americans have been, or will be, subject to investigation by defendant District Attorneys.

20. Despite the questionable validity of a fourteen month old study involving a test sample of only 100 newly registered persons of foreign birth, Defendant Russoniello has insisted on maintaining this investigation only against persons requesting election information in Spanish or Chinese.

21. Such an investigation of persons who were foreign born and may have been ineligible to vote was not based on any reasonable suspicion that foreign born voters were committing fraud nor that the problem of voter irregularities was limited only to persons of Hispanic-American or Chinese-American descent. By focusing the investigation only on this select group of individuals, limited by national origin and race to Hispanic-Americans and Chinese-Americans, defendants have acted willfully with a malicious intent to violate the legal rights of plaintiffs, and have arbitrarily discriminated against those individuals who had requested bilingual election materials, i.e., citizens of Hispanic and Chinese descent.

22. Plaintiffs have suffered, and will suffer, irreparable injury because of the threat that they and their association with political groups may be investigated if federal defendants are "unable to state with surety" (see Exhibit A) that the former are naturalized citizens eligible to vote.

23. Defendants, all of whom are versed in the First Amendment rights of individuals to associate with groups and entities, as well as the right of individuals to participate in the electoral process free from racial or national origin stigmas, knew or should have known that such actions would single out only citizens of Hispanic or Chinese descent. Despite such knowledge, defendants pursued such an investigation in reckless disregard of the rights of such individuals.

24. As a result of these clandestine investigations, defendants also planned to question citizens of Hispanic and Chinese descent who had their names pulled from voter registration lists as to which "special interest" groups had registered them, why they had registered, and whether such individuals had been induced to register under false pretenses. Such an investigation, as defendants knew, would not only violate the individuals' right of association and right to refuse to answer questions as to political activity, but also effectively intimidate, threaten and coerce Hispanic and Chinese-American groups actively involved in encouraging individuals to participate in registering and voting.

25. The activities undertaken by defendants were not undertaken pursuant to any grand jury investigation, nor was there any authorization given to those officials to undertake such an investigation by California State officials or the United States Attorney General. Such actions by defendants were undertaken outside the scope of their authority and were an abuse of discretion.

26. Each of the defendants herein have participated in, or are beneficiaries of, programs that receive federal financial assistance.

VI

REQUISITES FOR RELIEF

27. Plaintiffs have suffered, and will continue to suffer, irreparable harm, injury, and loss as a direct and proximate result of the conduct of defendants complained of herein.

28. Plaintiffs lack a plain, speedy, or adequate remedy at law to prevent such irreparable harm, injury and loss, and will continue to so suffer unless this Court enjoins the conduct complained of.

29. An actual and substantial controversy exists between plaintiffs and defendants:

a. Plaintiffs contend that the conduct of defendants complained of herein is unlawful and unconstitutional for the reasons set forth herein.

b. Defendants contend that their conduct as described above is lawful and constitutional in all respects and fully intend to continue such conduct.

30. By reason of the acts of defendants complained of herein, plaintiffs have suffered actual harm and damage.

31. Defendants have committed the acts complained of herein willfully, maliciously, and in bad faith, under color of authority of the United States and the State of California, with full knowledge that said acts were violative of the constitutional and statutory rights alleged herein.

VII

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Violation of Fifteenth Amendment)

32. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 31, as set forth above.

33. By reason of the actions of the defendants as set forth herein above, Defendants have violated the Fifteenth Amendment.

SECOND CLAIM FOR RELEIF

(Equal Protection)

34. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 31, as set forth above.

35. Defendants have participated in the compilation of a list of individuals on voter registration lists who have or will have used bilingual election materials. Such a list was compiled only of citizens of Hispanic or Chinese descent, since by necessity only these individuals request bilingual election materials. Despite defendants' knowledge that voting irregularities may have occurred with respect to all naturalized citizens, defendants intentionally selected only citizens of Hispanic or Chinese descent for investigation.

36. This classification of voters is invidious and arbitrary in that it causes a discriminatory investigation of plaintiffs and the class they represent solely on the basis of race, color or national origin. As to the Federal defendants, such discriminatory practices deny plaintiffs equal protection of the law in violation of the Fifth Amendment to the United States Constitution. As to the State defendants, such practicies violate the Fourteenth Amendment.

THIRD CLAIM FOR RELIEF

(Due Process)

37. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 31, as set forth above.

38. The investigation herein described was undertaken by defendants without any reasonable basis to believe that citizens of foreign birth requesting bilingual ballot material were illegally registering to vote. Such investigation, undertaken in a clandestine manner, is in violation of plaintiffs' due process rights under the Fifth and Fourteenth Amendment to the United States Constitution as against the state defendants and the Fifth Amendment against the federal defendants.

FOURTH CLAIM FOR RELIEF

(Violation of Civil Rights Act, 42 U.S.C. § 1971 *et seq.*)

39. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 31, as set forth above.

40. The actions of all defendants as set out above have effectively intimidated, threatened, and coerced citizens of Hispanic and Chinese ancestry from participating in the electoral process. Such actions, made under color of state or federal law, have been undertaken on the basis of race, color and national origin in violation of the Civil Rights Act of 1960, 42 U.S.C. §1971, *et seq.*, and particularly 42 U.S.C. §§ 1971(a)(2)(A) and 1971(b).

FIFTH CLAIM FOR RELIEF

(Violation of Voting Rights Act, 42 U.S.C. § 1973 *et. seq.*)

41. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 31, as set forth above.

42. The actions of all defendants as set out above have effectively intimidated, threatened, and coerced plaintiffs by establishing qualifications to vote based on race and national origin as well as intimidating, threatening and preventing plaintiffs from aiding citizens of Hispanic and Chinese ancestry from participating in the electoral process in violation of 42 U.S.C. § 1973 *et seq.*, and particularly 42 U.S.C. §§ 1973, 1973b (f)(2) 1973i(b), 1973j(a) and 1973j(c).

SIXTH CLAIM FOR RELIEF

(Violation of Bilingual Election Requirements, 42 U.S.C. 1973 aa-1a)

43. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 31, as set forth above.

44. The actions of the defendants as set out above have effectively discriminated against citizens of language minorities, in violation of 42 U.S.C. § 1973 aa-1a, *et seq.*, which prohibits such practices.

SEVENTH CLAIM FOR RELIEF

(Violation of First Amendment)

45. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 31, as set forth above.

46. The actions of defendants as set out above have effectively threatened, coerced and intimidated plaintiffs in their efforts to seek out citizens of Hispanic and Chinese ancestry for purposes of urging them to participate in the electoral process. Defendants' actions, which threaten to investigate how plaintiff groups are registering citizens of Hispanic and Chinese descent, are and will be violating plaintiffs' right of association and political expression in violation of the First Amendment to the United States Constitution.

EIGHTH CLAIM FOR RELIEF

(42 U.S.C. 2000(d)

47. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 31, as set forth above.

48. The actions of defendants have subjected plaintiffs to discrimination on the basis of race, color or national origin under a program or activity receiving federal financial assistance in violation of 42 U.S.C. § 2000(d).

NINTH CLAIM FOR RELIEF

(Right of Privacy)

49. Plaintiffs hereby refer to and incorporate each and

every allegation in Paragraphs 1 through 31, as set forth above.

50. By defendants selecting names of individuals seeking election material in languages other than English for the purpose of secret investigations, defendants have initiated, encouraged and condoned a violation of Article I, Section 1 of the California Constitution which guarantees a right of privacy to every person in California. Such acts by defendants violated plaintiffs' right of privacy in that using a person's request for a bilingual ballot was for an entirely unauthorized, unrelated purpose.

TENTH CLAIM FOR RELIEF

(Violation of Section 5 of Voting Rights Act)

51. Plaintiffs hereby refer to and incorporate each and every allegation in Paragraphs 1 through 31, as set forth above.

52. Under the provisions of Sections 4 and 5 of the Voting Rights Act of 1965 (42 U.S.C. § 1973b and § 1973c), Monterey County is a covered jurisdiction which is required by law before enacting or seeking to administer any changes in voting qualifications or prerequisites to voting, or changes in any standard, practices or procedure with respect to voting, to seek approval and clearance for any such change from the United States District Court for the District of Columbia or from the Attoreny General of the United States.

53. Commencing on or about April 19, 1982, defendants Curtis and Ross Underwood, together with defendants Russoniello and Ilchert, as complained of herein, have enacted and seek to administer a change in voting qualifications and prerequisites to voting, and the standards, practices and procedures with respect to voting in Monterey County, by selecting out registrants solely on the basis of their foreign birth and request for a bilingual

ballot, submitting the names of these registrants to federal agencies, including the United States Attorney and the Immigration and Naturalization Service, for a verification of their citizenship status and eligiblity to vote, and then having officials of Monterey County contact and investigate certain of the registrants as to their citizenship status, the circumstances of their registration, and identity of any person or organization who assisted them in registering and requesting bilingual ballots.

54. Monterey County has not submitted and precleared the practices and procedures described in paragraph 53 above to the Attorney General of the United States for approval nor has the County sought or obtained a declaratory judgment from the United States District Court for the District of Columbia that such qualification, prerequisite, standard, practice or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote in violation of the Voting Rights Act.

55. The actions of defendants Curtis, Ross Underwood, Russoniello and Ilchert in singling out the investigating persons based on their race and language minority status has discriminated against said persons and interfered and deterred them from utilizing bilingual election materials and participating in the electorial process, and has also interfered and deterred persons and groups from associating together to counsel and advise individuals of Hispanic descent to utilize bilingual election materials and participate in the electorial process.

56. The actions of defendants Curtis, Ross Underwood, Russoniello and Ilchert in following the procedures and practices described above without first obtaining federal preclearance violate Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully pray:

1. For a temporary restraining order prohibiting defendant Russoniello, his successors, employees, agents, and all persons working in concert or participation with him, from requesting, seeking, soliciting, or requiring that defendant District Attorneys and Registrars forward to the office of the United States Attorney the names of any persons solely on the basis of their having sought bilingual election materials in their respective counties, and further requiring defendants Russoniello and Ilchert, their successors, employees, agents, and defendant District Attorneys and Registrars, and all persons working in concert or participation with them, to maintain, under seal pending further order of the Court, all information previously gathered solely on the basis of a person having requested bilingual ballot material and to refrain from transferring said information to any other person or agency, and further prohibiting the defendant District Attorneys and County Registrars, their successors, employees, agents, and all persons working in concert or participation with them, from taking any further action to facilitate, aid, or otherwise assist the office of the United States Attorney or the Immigration and Naturalization Service to obtain names of persons requesting bilingual ballot materials, and to show cause before the court why they should not be enjoined in the future.

2. For an order certifying that plaintiffs may properly represent all other persons similarly situated and that the action may be maintained as a class action.

3. For a preliminary injunction prohibiting defendant Russoniello, his successors, employees, agents, and all other persons working in concert or participation with him from requesting, seeking, soliciting or requiring that defendant District Attorneys and Registrars forward to the office of the United States Attorney or the Immigra-

tion and Naturalization Service the names of any persons solely on the basis of their having sought bilingual election materials in their respective counties, and further requiring that defendants Russoniello and Ilchert, and defendants District Attorneys and Registrars, maintain under seal pending final disposition of the case, all information previously gathered and refrain from transferring the information by any person or agency except under court order, and further prohibiting defendant District Attorneys and Registrars, their successors, employees, agents and all persons working in concert or participation with them from taking any further actions to facilitate, aid, or otherwise assist the office of the United States Attorney or the Immigration and Naturalization Service to obtain names or intimidate persons requesting bilingual ballot materials.

4. For a preliminary injunction restraining the defendants and each of them, their successors, employees, and all persons working in concert or participation with them, from taking any action to threaten, intimidate, or coerce any persons or group from exercising their right or attempting to exercise their right to receive bilingual election materials under state or federal law.

5. For a judgment pursuant to 28 U.S.C. § 2201-2202 declaring the respective rights of the parties.

6. For a permanent injunction prohibiting defendant Russoniello, his successors, employees agents, all other persons working in concert or participation with him, from requesting, seeking, soliciting or requiring that defendant District Attorneys and Registrars forward to the office of the United States Attorney or the Immigration and Naturalization Service the names of any persons solely on the basis of their having sought bilingual election materials in their respective counties, and further requiring that defendants Russoniello and Ilchert, and defendants District Attorneys and Registrars, destroy, expunge

and obliterate all information previously gathered, and refrain from transferring the information to any person or agency except under court order, and further prohibiting defendant District Attorneys and Registrars, their successors, employees, agents and all persons working in concert or participation with them from taking any further actions to facilitate, aid, or otherwise assist the office of the United States Attorney or the Immigration and Naturalization Service to obtain names or intimidate persons requesting bilingual ballot materials.

7. For the convening of a three-judge court to determine plaintiffs' Tenth Claim For Relief.

8. Pursuant to the Tenth Claim for Relief, for a temporary restraining order, and, after hearing, a preliminary injunction prohibiting defendants Curtis, Ross Underwood, Russoniello and Ilchert, their successors, employees, agents, and all persons working in concert of participation with them, prior to Monterey County having complied with the requirements of 42 U.S.C. § 1973c with respect to obtaining preclearance for the investigation and procedures complained of herein, from participating or administering in any way the investigation of bilingual voters instituted by defendant Russoniello, including, but not limited to, contacting or investigating individuals or groups who have been singled out pursuant to the procedures complained of in this complaint, forwarding any information or names obtained as a result of the investigation complained of herein to any other person or agency, and also ordering said defendants to maintain under seal pending further order of the Court all information previously gathered as a result of the investigation complained of herein; and for a permanent injunction making said preliminary injunction permanent.

9. For damages according to law and proof.

10. For costs of suit and reasonable attorneys fees.

11. For all other relief that the court finds equitable and proper.

DATED: July 28, 1982

Respectfully submitted,

JOAQUIN G. AVILA
MORRIS J. BALLER
HECTOR VASQUEZ
SUSAN E. BROWN
RONALD T. VERA
Mexican American Legal Defense and Educational Fund

MARGARET C. CROSBY
ALAN L. SCHLOSSER
AMITAI SCHWARTZ
American Civil Liberties Union Foundation of Northern California

LAWRENCE B. GARCIA
KATHLEEN POOL

By: ALAN L. SCHLOSSER
Alan L. Schlosser
Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA

Civil Action No. C-82-2102-SW

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED; ET AL., PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY, AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA; ET AL., DEFENDANTS.

DECLARATION OF LON UNDERWOOD

I, Lon Underwood, say:

1. I am the Assistant County Registrar and Supervisor of the Elections Department of Contra Costa County.

2. On April 21, 1982, the District Attorney of Contra Costa County requested that my Department submit names and dates of birth of 25 newly registered persons whose registration affidavits showed a foreign country as a place of birth and a request for bilingual election materials. To insure proper distribution of bilingual materials to our County's voters, the Elections Department has programmed its computers to provide a separate listing of those requesting bilingual ballot materials. Therefore, I was able to provide the District Attorney with the information he requested on April 22, 1982. It was not necessary for us to consider the race or surname of voters in compiling this information. I have not received any additional requests for bilingual ballot information from the District Attorney since April 22.

3. On May 10, 1982, the Hispanic Coalition for Human Rights requested copies of the information we provided to the District Attorney and we complied with this request. (See Exhibit A attached hereto and incorporated herein by this reference.) It is our practice to allow public inspection of voter registration information provided such inspection is for an electoral or governmental purpose as required by Elections Code §§ 600 and 607 and 2 California Administrative Code § 19001 et seq. A copy of 2 California Administrative Code § 19001 et seq. is marked Exhibit B, attached hereto and incorporated by this reference.

I declare under penalty of perjury that the foregoing is true of my own personal knowledge and if called upon to do so, I could and would testify as set forth herein.

Executed on September 21, 1982 at Martinez, California.

/s/ LON UNDERWOOD
Lon Underwood

PJL/jh

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Civil # C-82-2102-SW

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED, ET AL., PLAINTIFF,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA, ET AL., DEFENDANTS.

DECLARATION OF JAMES D. BOITANO, DISTRICT ATTORNEY FOR THE COUNTY OF NAPA

COMES NOW JAMES D. BOITANO and declares as follows:

1. My name is JAMES D. BOITANO. I am now, and have since January 6, 1962, been District Attorney for the County of Napa.

2. I make this declaration on the basis of personal knowledge.

3. On or about April 20, 1982, I received a letter from Joseph P. Russoniello, United States Attorney for the Northern District of California. Therein, Russoniello reported that a recent investigation in Santa Clara County disclosed that at least some foreign born people who had registered to vote there were not United States citizens. Therefore, he asked me to provide him with the randomly selected names of newly registered persons of foreign birth who had requested ballot materials in languages other than English. According to his letter, Russoniello requested the information to determine how widespread the registration of persons ineligible to vote might be.

4. In my opinion, the request made by Russoniello was a lawful one which neither impinged upon nor violated the rights of any person.

5. Furthermore, in my opinion, the request made by Russoniello, and complied with by me, was not an unreasonable one under the circumstances, for it made effective and appropriate use of the investigative abilities of a "brother" law enforcement agency.

6. Finally, I have not conducted, and have no present intention of conducting, a further investigation regarding the registration of persons ineligible to vote.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 22nd day of September, 1982, in Napa, California.

/s/ JAMES D. BOITANO
By: William G. Gusse
Chief Deputy District Attorney
Napa County

JCF/lea
9/22/82

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Civil # C-82-2102-SW

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED, ET AL., PLAINTIFF,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA, ET AL., DEFENDANTS.

DECLARATION OF BARBARA GREENSLATE, ELECTIONS SUPERVISOR FOR THE COUNTY OF NAPA

Comes now Barbara Greenslate and declares as follows:

1. My name is Barbara Greenslate. I am now, and have since July 1, 1975, been Elections Supervisor for the County of Napa.

2. I make this declaration on the basis of personal knowledge.

3. On or about April 21, 1982, I received a letter from James D. Boitano, District Attorney for the County of Napa. Attached thereto was a copy of a letter written to Mr. Boitano by Joseph P. Russoniello, United States Attorney for the Northern District of California. In his letter, Mr. Russoniello reported that a recent investigation in Santa Clara County disclosed that at least some foreign born people who had registered to vote there were not United States citizens. Therefore, he asked for the randomly selected names of 23 newly registered persons of foreign birth who had requested ballot materials in languages other than English. According to his letter, Mr. Russoniello was requesting the information in order to

determine how widespread the registration of persons ineligible to vote might be. At his request, I gave Mr. Boitano the names of 23 newly registered persons of foreign birth who had requested ballot materials in languages other than English.

4. The information which I gave James D. Boitano is a public record; that is, information which I am compelled by the laws of the State of California to disclose upon request.

5. Furthermore, in my opinion, the disclosure to Mr. Boitano of the information described above was lawful, for it neither impinged upon nor violated the rights of any person.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 22nd day of September, 1982, in Napa, California.

/s/ BARBARA GREENSLATE
Barbara Greenslate

JCP/lea
9/22/82

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

NO. C-82-2102-SW

JOSE J. OLAGUES, ET AL., PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, ET AL., DEFENDANTS.

DECLARATION OF MARVIN CHURCH

I, MARVIN CHURCH, declare that:

1. I am the County Clerk and Registrar of Voters for the County of San Mateo, State of California.

2. I am personally knowledgeable of the matters stated hereinafter except as to those matters with respect to which I am informed and believe them to be true, which information and belief are asserted hereafter as to such matters, as appropriate.

3. On April 21, 1982, I received a memorandum from Keith C. Sorenson, San Mateo County District Attorney, accompanied by a letter to Mr. Sorenson from Joseph P. Russoniello, United States Attorney for the Northern District of California. In his letter Mr. Russoniello requested a random sample of 25 names from the list of registered voters in San Mateo County. He asked that the names be selected from those voters who had indicated on their affidavits of registration that they were foreign born and who had also requested voter material in the Spanish language. Mr. Sorenson's memorandum asked me to provide the random sample requested by Mr. Russoniello.

4. Pursuant to the District Attorney's request, I directed my Chief Deputy to select at random from the current list of registered voters the names of 25 persons

whose registrations showed them to be foreign born and who had requested voter material in the Spanish language.

5. Pursuant to my request, the random sample was prepared; and on April 28, 1982, I forwarded the sample list of 25 names to Mr. Russoniello.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Redwood City, California, on September 17, 1982.

/s/ MARVIN CHURCH

Marvin Church, *County Clerk and Registrar of Voters, San Mateo County*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NO. C-82-2102-SW

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED, ET AL., PLAINTIFF,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA, ET AL., DEFENDANTS.

DECLARATION OF RAY E. CUNNINGHAM

I, RAY E. CUNNINGHAM, declare that:

1. I am a Deputy District Attorney for the County of Santa Clara.

2. I am personally knowledgeable of those matters stated hereafter, except as to those matters with respect to which I am informed and believe them to be true, which information and belief is asserted hereafter as to such matters, where appropriate.

3. I have been a member of the Santa Clara County District Attorney's Office for seven (7) years.

4. I was the Deputy District Attorney in charge of the local Santa Clara County investigation into allegations of possible voter registration fraud in Santa Clara County.

5. The Santa Clara County investigation was conducted between February, 1981, and February, 1982, and Louis Bergna, District Attorney for Santa Clara County, was informed of the progress and conclusion of the investigation.

6. Our investigation demonstrated that a number of illegally registered foreign born voters who we interviewed

had registered due to a language problem vis-a-vis the person conducting the registration drive.

7. Some months after the conclusion of our investigation, this office was contacted by the United States Attorney's Office concerning our investigation of possible voter registration fraud.

8. Our office welcomed the federal government's interest in pursuing an investigation into the area of possible voter registration fraud.

9. In responding to United States Attorney Russoniello's April 19, 1982, request, we were cooperating in good faith with a federal investigation in an area that this office believed needed to be addressed at the federal and/or state level.

10. United States Attorney Russoniello's investigation into foreign born voters who requested a bilingual ballot addressed a problem identified in our earlier investigation.

11. It is this office's belief that the United States Attorney's requested information did not violate any individual's legal rights.

12. The Santa Clara County District Attorney Office's cooperation with the United States Attorney did not violate any individual's legal rights.

Dated: September 20, 1982.

/s/ RAY E. CUNNINGHAM
Ray E. Cunningham

SGL:lg

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

Civil Action No. C-82-2102-SW

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED, ET AL., PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY, AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA; ET AL., DEFENDANTS.

DECLARATION OF WILLIAM D. CURTIS

I, WILLIAM D. CURTIS, declare that:

1. I am the District Attorney for the County of Monterey, State of California.

2. I am personally knowledgeable of the matters stated hereafter, except as to those matters with respect to which I am informed and believe them to be true, which information and belief is asserted hereafter as to such matters, where appropriate.

3. On April 20, 1982, I received a letter dated April 19, 1982, from Joseph P. Russoniello, United States Attorney, Northern District of California. A true and correct copy of the letter is attached hereto, marked Exhibit A, and is incorporated herein by reference as though set forth in full.

4. The letter requested that I obtain from the Monterey County Registrar of Voters the names and dates of birth of twenty-five (25) persons of new registration, randomly selected, whose affidavits of registration reflected: (1) place of birth in a foreign country; and (2) a preference for election materials in a language other than

English, and that I forward those names and dates of birth to the United States Attorney not later than April 30, 1982.

5. The letter stated that Mr. Russoniello did not contemplate pursuing criminal prosecutions against ineligible persons who had registered to vote, but that he would seriously consider prosecuting persons whom the evidence showed deliberately conspired with another for the purpose of encouraging the giving of false information in order to establish the eligibility of any individual to register to vote.

6. The letter also stated that I would be free to take whatever action I deemed appropriate, pursuant to California Elections Code Section 29200, which provides as follows:

> "(a) Every person who willfully causes, procures, or allows himself or any other person to be registered as a voter, knowing that he or that other person is not entitled to registration, is punishable by imprisonment in the state prison for 16 months or two or three years, or in a county jail for not more than one year.
>
> "(b) Every person who knowingly and willfully signs, or causes or procures the signing of an affidavit of, registration of a nonexistent person, and who mails or delivers, or causes or procures the mailing or delivery of, such affidavit to a county clerk is guilty of a crime punishable by imprisonment in the state prison for 16 months or two or three years, or in a county jail for not more than one year. For purposes of this subdivision, "nonexistent person" includes, but is not limited to, deceased persons, animals, and inanimate objects."

7. Mr. Russoniello's letter requested that interviews be conducted with respect to those Monterey County residents in the random sampling as to whom the United States Attorney could not state with certainty that he/she had been naturalized. The purpose of such interviews was

to determine: (1) the basis upon which the person claimed citizenship and entitlement to vote; and (2) where the person did not claim citizenship, what representations were made to that person as to the necessary qualifications to vote at the time the person was registered. It was requested that all such interviews be completed by me by May 21, 1982.

8. On April 21, 1982, at my direction, John M. Phillips, Assistant District Attorney, called Ross Underwood, Monterey County Registrar of Voters, explained the nature and purpose of his request for the random sampling of twenty-five (25) newly registered persons of foreign birth who had requested election materials in a language other than English, then sent Mr. Underwood a confirming memorandum, also dated April 21, 1982. The memorandum, a true and correct copy of which is attached hereto, marked Exhibit B, and is incorporated herein by reference, as though set forth in full, repeated Mr. Phillips' telephone request that the matter be kept strictly confidential. This was in keeping with the apparent intent of Mr. Russoniello's letter (eg., page 2, paragraph 1 and page 3, paragraph 4), and my understanding that this was in fact a preliminary investigation by the United States Attorney in which we had been asked to render assistance.

9. On April 30, 1982, Betty L. Bloomer, Monterey County Assistant Registrar of Voters, forwarded certified copies of the requested random sampling of newly registered voters, together with a cover memorandum, a true and correct copy of which is attached hereto, marked Exhibit C, and is incorporated herein by reference as though set forth in full. I was informed by Mr. Phillips just after that date that they had been received.

10. On May 4, 1982, at my request, Thomas A. Kenan, my Administrative Assistant, sent a letter to Joseph P. Russoniello, transmitting the 25 randomly selected certified copies of voter registration affidavits

which we had been requested by the United States Attorney to obtain from the Monterey County Registrar of Voters. A true and correct copy of that letter is attached hereto, marked C, and is incorporated herein by reference as though set forth in full.

11. On May 27, 1982, I received a letter dated May 26, 1982, from Joseph P. Russoniello, a true and correct copy of which is attached hereto, marked Exhibit D, and is incorporated herein by reference as though set forth in full. The letter contained general information concerning the statistical data developed from the respective submissions of the various counties from whom random samplings had been obtained, and requested that follow-up interviews be conducted with persons for whom no federal record confirming citizenship status of the individual was found, or for whom the record found did not indicate naturalization status. (See, also Exhibit A, bottom of page 2, top of page 3.) Inter alia, a suggested Interview Sheet form was attached to the letter, indicating the information desired by the United States Attorney to be obtained in the follow-up interviews. A true and correct copy of that Interview Sheet form is attached hereto, marked Exhibit E, and is incorporated herein by reference as though set forth in full. From the statement contained at the top of page 3 of Exhibit D, it was my belief that we were merely assisting the United States Attorney to get the remaining local information needed for the investigation he was conducting, and that if we were unable to conduct the requested interviews, the United States Attorney would make ". . . other arrangements . . . to get this done."

12. In conversations with Assistant District Attorney John M. Phillips after the receipt of Mr. Russoniello's May 26, 1982 letter, it was our decision to shorten the Interview Sheet form by deleting subsections c), d) and e) from the last question on the form, for the reason that the preceding questions sufficiently developed the informa-

tion apparently sought by the United States Attorney that subsections c), d) and e) added little to the information which would already have been given in answering the preceding questions. In addition, I considered the remote possibility that those subsections might conceivably give rise to unwarranted or added controversy in the lawsuit already filed. Viewed in light of those considerations, I felt that those three subsections could safely be deleted without altering the character, nature or extent of the United States Attorney's investigation. A true and correct copy of the shortened Interviewed Sheet form is attached hereto, marked Exhibit F, and is incorporated herein by reference as though set forth in full.

13. After receipt of Mr. Russoniello's May 26, 1982 letter, I instructed John M. Phillips to delay assigning the interviews requested by the United States Attorney to one of our investigators until after the June, 1982 primary elections, so that our assistance to the United States Attorney would not in any way affect the voting process or the registration of voters for the June, 1982 primary elections. Additionally, I asked Mr. Phillips to telephone William McGivern, Assistant United States Attorney, to inform him that it would take some time to conduct the interviews requested, since our office had more pressing investigations pending.

14. In approximately mid-June, at my direction, Mr. Phillips assigned the task of completing the requested interviews to R. Lucille Withers, one of our District Attorney Investigators, inasmuch as she is bilingually fluent in Spanish. Thirteen of these interviews were conducted by her between the dates of June 29 and July 13, 1982.

15. The completed Information Sheets resulting from those interviews conducted by R. Lucille Withers were forwarded to me shortly after July 13, 1982, and are still in my possession. Neither the completed Information Sheets

not the information contained thereon has been transmitted to the United States Attorney or anyone else. On the advice of counsel, it is my intention to take no further action in this matter, by which I mean: (1) I do not intend to forward the information obtained in the interviews conducted by R. Lucille Withers to the United States Attorney without an order of a court of competent jurisdiction requiring that I do so; and (2) I do not intend to contact any of the persons for whom interviews were requested by the United States Attorney.

16. Throughout this matter, it has been my understanding and belief: (1) that I was merely assisting the United States Attorney to conduct an investigation concerning irregularities with respect to voter registration; (2) that the United States Attorney could himself have done the things I was requested to do, particularly because of the fact that the Affidavit of Voter Registration is a public record pursuant to California Government Code Sections 6250, et seq., available to any person for inspection upon his/her request; and (3) that the United States Attorney's office was not seeking the information requested of me in order to criminally prosecute those persons who had been improperly registered.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 20th, 1982.

/s/ WILLIAM D. CURTIS

William D. Curtis
Monterey County District Attorney

Exhibit A

U.S. Department of Justice

United States Attorney
Northern District of California

16th Floor Federal Building – Box 36055
450 Golden Gate Avenue
San Francisco, California 94102

Branch Office
675 N. First Street, Suite 508
San Jose, California 95112

April 19, 1982

Honorable William D. Curtis
District Attorney
Monterey County
240 Church Street
Post Office Box 1369
Salinas, California 93902

Re: Primary Election: June 8, 1982 –
Possible Inappropriate Voter Registration
of Aliens

Dear Mr. Curtis:

Your county, together with the counties of Alameda, Contra Costa, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz and Sonoma, has previously been identified as effected by the provisions of 42 United States Code, Section 1973aa-1a and following, commonly known as the Bilingual Election Requirement. Those provisions require that each effected country provide "any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral

process, including ballots," in the Spanish language and, in the case of San Francisco County, in the Chinese language in addition to English.

As a corollary to the effected counties' efforts to comply, several groups have undertaken voter registration drives targeted toward registering individuals whose primary language is Spanish or Chinese and we do not challenge their rights to do so. However, an investigation undertaken by the Santa Clara County District Attorney at the request of Voter Registrar George Mann beginning in about February 1981, disclosed that with respect to a test sample of 100 newly-registered persons of foreign birth, twenty were determined not to be U.S. Citizens and eleven others could not be located. The investigation disclosed that those persons who were not U.S. Citizens, but who did register erroneously, believed they were eligible to vote because they were either married to U.S. Citizens or had been residents of the United States for a long period of time.

We are concerned, as I am sure you are, that if as many as thirty percent of the newly-registered foreign born persons vote even though they are not eligible to do so, especially given the expected intensive effort to register non-English speaking persons, the elections to be held June 8 may be so effected that the results are subject to court challenge. Any successful challenge will mean considerable expense, both to the counties and to the candidates involved therein.

It is too early to sound any alarm but there is, in my judgment, a sufficient basis for our undertaking some mutual effort to determine the extent to which persons are being registered who are not entitled to vote. If such be the case it seems to me that the fault or blame, if any need be leveled, lies with the registration affidavit form itself in

that even though question No. 6 asks for the state in the USA or foreign country of birth, there is no follow-up question eliciting information as to the date and place of naturalization if a foreign country *is* the place of birth. Even though the affidavit contains the statement, "I am a citizen of the United States . . . ," as has previously been shown, a significant number of persons believed that citizenship was synonomous with residency and/or could be acquired by marriage alone. (I enclose a copy of the affidavit which I understand is used in one form or another in your county for your information.)

Before any accurate assessment can be made that we have a problem with respect to the June election, we should at least sample the newly-registered persons of foreign birth to determine what percentage of them are in fact eligible to vote and to that end I propose the following:

1. Through your good offices, the Registrar of Voters should be asked to submit at random the names and dates of birth of twenty-five persons of new registration, whose affidavits of registration reflect (1) a foreign country as the place of birth and (2) a preference for election materials in a language other than English.

2. Those names and dates of birth should be forwarded to us not later than April 30, 1982.

3. Upon receipt, we will forward the twenty-five names received from your Registrar and the twenty-five names received from the Registrars in all other counties aforenamed to the Immigration and Naturalization Service who will scan their computer for the purpose of determining the number of persons known to be naturalized or, in the alternative, known to be resident aliens ineligible to vote. They will report their results to us and we will pass them on to you by no later than May 7, 1982.

4. As to each person with respect to whom we are unable to state with surety that he/she has ben naturalized, a follow-up interview should be conducted by your

office to determine (1) the basis upon which they claim citizenship and entitlement to vote and (2) in cases in which they are unable to prove citizenship, what representations were made to them by Registrars as to their qualification to vote. These follow-up interviews should be given priority so that all investigations are completed by May 21.

5. On May 24 we will check with each DA's office to determine the results of their investigation and will report to each office on May 25 the results of the overall investigation.

6. Depending upon those results and the extent to which inappropriate rgistration is determined, we should decide by mutual agreement what further action to take. In this connection, a joint press conference alerting the general public and prospective unauthorized voters in particular of the results of our investigation might be appropriate. Alternatively, the respective Registrars may choose to take some action with regard to each potential voter effected by our survey to require proof of citizenship before permitting that person to vote. The various alternatives will require considerable discussion and your input as well as the input of the Registrars of Voters who might be required to take some action.

For our part, we do not comtemplate initiating prosecutions against individual registrants as we are empowered to do pursuant to the provisions of 42 U.S.C. Section 1973dd-3(c), but will seriously consider such prosecutions against persons whom the evidence shows deliberately "conspired with another individual for the purpose of encouraging the giving of false information in order to establish the eligibility of any individual to register . . ." You would of course be free to pursue whatever action you deemed appropriate as provided for in Section 29200 of the California Elections Code.

Because of the sensitivity of this matter and because it is premature to suggest that the June 8 election is in jeopardy, we will refrain from issuing any press advisory or making any statement regarding this ongoing investigation and will consult with you before taking any such action. I would appreciate your doing likewise and hearing from you if you consider some media notification to be appropriate at this time.

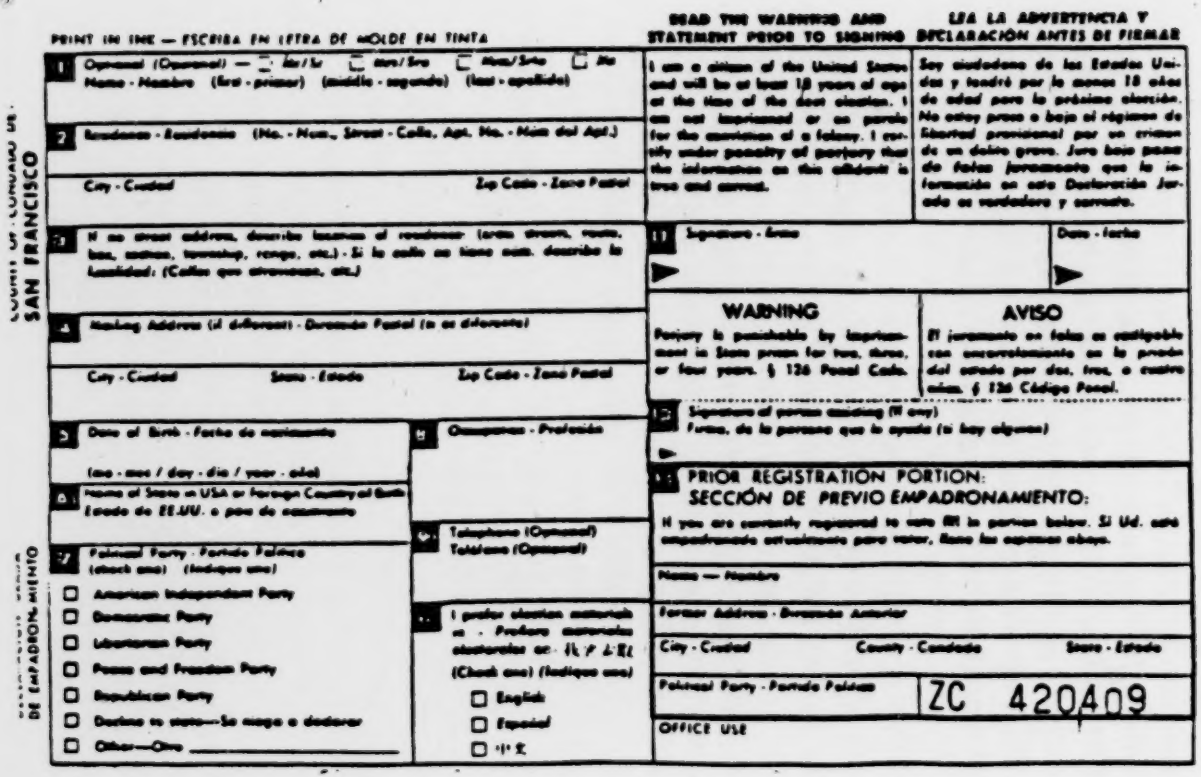
If you have any question concerning the foregoing or would like to discuss the matter further, Chief Assistant United States Attorney William T. McGivern (556-8477) will be coordinating the effort on our end and will make himself available to discuss planning with you.

Very truly yours,

/s/ JOSEPH P. RUSSONIELLO

Jospeh P. Russoniello
United States Attorney

Enclosure



PRINT IN INK — ESCRIBA EN LETRA DE MOLDE EN TINTA

COUNTY OF CONTRA COSTA
SAN FRANCISCO

DECLARACION DE EMPADRONAMIENTO

1 Optional (Opcional) — ☐ Mr./Sr. ☐ Mrs./Sra. ☐ Miss/Srta. ☐ Ms.
Name - Nombre (first - primer) (middle - segundo) (last - apellido)

2 Residence - Residencia (No. - Num., Street - Calle, Apt. No. - Num del Apt.)
City - Ciudad Zip Code - Zona Postal

3 If no street address, describe location of residence (cross street, route, box, section, township, range, etc.) - Si la calle no tiene num. describa la localidad: (Calles que atraviesan, etc.)

4 Mailing Address (if different) - Dirección Postal (si es diferente)
City - Ciudad State - Estado Zip Code - Zona Postal

5 Date of Birth - Fecha de nacimiento
(mo - mes / day - dia / year - año)

6 Occupation - Profesión

7 Name of State in USA or Foreign Country of Birth
Estado de EE.UU. o país de nacimiento

8 Telephone (Optional)
Teléfono (Opcional)

9 Political Party - Partido Político
(check one) (Indique uno)
☐ American Independent Party
☐ Democratic Party
☐ Libertarian Party
☐ Peace and Freedom Party
☐ Republican Party
☐ Decline to state—Se niega a declarar
☐ Other—Otro _____

10 I prefer election materials in . Prefiero materiales electorales en: (Check one) (Indique uno)
☐ English
☐ Español
☐ 中文

READ THE WARNING AND STATEMENT PRIOR TO SIGNING

I am a citizen of the United States and will be at least 18 years of age at the time of the next election. I am not imprisoned or on parole for the conviction of a felony. I certify under penalty of perjury that the information on this affidavit is true and correct.

LEA LA ADVERTENCIA Y DECLARACIÓN ANTES DE FIRMAR

Soy ciudadano de los Estados Unidos y tendré por lo menos 18 años de edad para la próxima elección. No estoy preso o bajo el régimen de libertad provisional por un crimen de un delito grave. Juro bajo pena de falso juramento que la información en esta Declaración Jurada es verdadero y correcto.

11 Signature - Firma ▶ Date - Fecha ▶

WARNING
Perjury is punishable by imprisonment in State prison for two, three, or four years. § 126 Penal Code.

AVISO
El juramento en falso es castigable con encarcelamiento en la prisión del estado por dos, tres, o cuatro años. § 126 Código Penal.

12 Signature of person assisting (if any)
Firma, de la persona que le ayuda (si hay alguno) ▶

13 PRIOR REGISTRATION PORTION:
SECCIÓN DE PREVIO EMPADRONAMIENTO:
If you are currently registered to vote fill in portion below. Si Ud. está empadronado actualmente para votar, llene las espacios abajo.

Name — Nombre
Former Address - Dirección Anterior
City - Ciudad County - Condado State - Estado
Political Party - Partido Político ZC 420409
OFFICE USE

120

BEST A

AVAILABLE COPY

NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

BUSINESS REPLY MAIL

FIRST CLASS PERMIT NO. 9814 SACRAMENTO, CA

POSTAGE WILL BE PAID BY
CALIFORNIA SECRETARY OF STATE

JAY PATTERSON
REGISTRAR OF VOTERS
155 CITY HALL
SAN FRANCISCO, CA 94102

121

REGISTER TO VOTE

VOTER INFORMATION

1. You must be a citizen of the United States.
2. You must be a resident of California.
3. You must be 18 years of age or older to vote.
4. You must *not* be in prison or on parole for the conviction of a felony.
5. In order to vote in any specific election you must be registered 29 days prior to that election. If your affidavit is complete, your registration is effective upon receipt by the county clerk or registrar of voters; however, you should not consider yourself registered until you receive a Voter Notification Card. If you do NOT receive a Voter Notification Card, call the county clerk or registrar of voters.
6. If you are unable to go to your polling place on election day, contact your county clerk or registrar of voters to request an absent voter ballot. A written application must be on file in that office at least 7 days before the election.
7. For elections information call the number listed below;
   Telephone: (415) 558-3417

INFORMACIÓN AL VOTANTE

1. Ud. debe ser ciudadano de los Estados Unidos.
2. Debe ser residente de California.
3. Debe haber cumplido los 18 años o mas de edad para poder votar.
4. *No* puede estar preso o bajo el régimen de libertad provisional por un crimen de un delito grave.
5. Para votor en una elección determinada Ud. debe de haberse empadronado 29 diás antes de la elección. Si su afidávit está completa, su empadronamiento entra en vigencia al ser recibida por el secretario del condado o el registrante de votantes; sin embargo, Ud. no deberá considerarse empadronado hasta que reciba una Tarjeta de Notificación al Votante. Si Ud. no recibe una Tarjeta de Notificación al Votante, llame al secretario del con-

dado o al registrante de votantes.

6. Sid Ud. no puede acudir a su lugar de votación el dia de la elección, póngase en contacto con el secretario del condado o el registrante de votantes, y pida una balota de votante ausente. La aplicación escrita tiene que estar actualmente en la oficina a lo menos siete dias antes de las eleccióones.
7. Para información electoral, llame al número que se indica a continuación:
   Teléfono: (415) 558-3417

JAY PATTERSON
REGISTRAR OF VOTERS
155 CITY HALL
SAN FRANCISCO, CA 94102

YOU MUST RE-REGISTER WHENEVER YOU MOVE
DEBE REGISTRARSE DE NUEVO SI CAMBIA DE RESIDENCIA

SAVE THIS PORTION FOR YOUR INFORMATION
GUARDE ESTA PORCION PARA SU INFORMACIÓN

(Detach here for mailing)

(Separe aqui para mandar por correo)

INSTRUCTIONS TO VOTER

TYPE OR PRINT IN INK: Read instructions and information carefully. Only your "signature" should be written, all other information should be printed or typed.

WARNING—STATEMENT UNDER PENALTY OF PERJURY: Be sure you read the statement located above and the warning below the signature line prior to signing your complete name. You must also sign the affidavit. If you are 17 years of age, you may register to vote provided you will be 18 on or before the date of the next election.

1. Print your complete name. A prefix (Mr., Mrs., Miss, Ms.) is not required.
2. Print your complete residence address (not P.O. Box), including City and Zip Code. Give the house, space, apt., or slip number. Enter the street name to include North, South, East, West, if appropriate, and indicate whether it is called ave., blvd., drive, place, street, road, lane, or circle, etc.
3. If no street address, describe location of residence: (cross streets, route, box, section, township, range, etc.).
4. Print your complete mailing address if different from residence address. Be sure to enter the route or box number, if any.
5. Print your complete date of birth.
6. Print the name of the state in U.S.A. or foreign country of birth.
7. Place an "X" in the box before the Qualified Political Party with which you choose to affiliate. In a direct primary election you will receive the ballot of the Qualified Political Party which you have selected.

If you do not affiliate with a qualified political party place an "X" in the box before the words "Decline to

State" or mark the box before "Other" and enter the name of any unqualified political party if you choose either of these, you will receive a non-partisan ballot, and will not be permitted to vote for party candidates at the primary election.

8. Print your specific occupation such as nurse, carpenter, homemaker, etc.
9. OPTIONAL: Telephone Number is optional. This number becomes public record if given.
10. Place an "X" in the appropriate box to receive your elections materials in the language you prefer.
11. After completing Affidavit (and Prior Registration Portion if appropriate) sign your name (as given in box #1) and date the Affidavit (in your normal handwriting).
12. If you receive assistance in completing this affidavit, have that person sign the affidavit below your signature.
13. PRIOR REGISTRATION PORTION: If you are registered to vote in another location, fill in the Prior Registration Portion of the affidavit giving your name, address, and party affiliation under which you are registered.

RETURN AFFIDAVIT TO COUNTY CLERK OR REGISTRAR OF VOTERS:

- If you return this card by mail, it must be dated and postmarked at least 29 days before the next election for your registration to be valid for that election.
- When you accept this card from someone who has filled it out, you must deliver it or mail it within 3 days to the address on the other side of this card.

INSTRUCCIONES AL VOTANTE

ESCRIBA A MAQUINA, O CON LETRAS DE MOLDE EN TINTA. Lea las instrucciones y la informacion cuidedosamente. Use su escritura normal y corriente soló al "firmar"; el resto de la informacion debe escribirse con letras de molde o a maquina.

ADVERTENCIA—DECLARACION BAJO PENA DE JURAMENTO EN FALSO: Antes de firmer su nombre complete, no olvide leer la advertencia y declaracion, situada encima de la linea indicada para su firma. Ud. debe también poner la fecha en la declaracion jurada (afidávit). Si Ud. tiene 17 años de edad, puede registrarse para votar siempre y cuando va a cumplir los 18 años en la fecha de la elección a antes de la misma.

1. Escriba su nombre complete usando letres de molde. No se requiere el use de un prefijo (Sr., Sra., Srta., Ms.).
2. Escriba la dirección complete de su residencia, usando letres de molde. Ponga el numero de la casa, puesta a muelle. Con el nombre de la calls, incluyo North, South, East, West (Norte, Sur, Este, Oeste) cuando existe tal designación, y tambien indique si se trota de ave., blvd., drive, place, street, road, lane, circle, etc. (avenida, bulevar, pesea, calle, corretora, collejón, etc.).
3. Si la calle no tiene núm. describa la localidad: (Calles que travesia, etc.)
4. Escriba con letra de molde su dirección postal completa, si es diferente de la dirección de su residencia. No olvide incluir of número de la ruta o del apartado postal, si existe.
5. Escribe su fecha complete de necimiento, con letras de molde.
6. Escribe con letras de molde el pais estranjero donde nacio, e el nombre del estado su nació en los Estados Unidos.

7. Ponga una "X" en la casilla delante del Partido Politico Capacitado, con el cual Ud. decide afiliarse. En una elección primera directa, Ud. recibirá la balote correspondiente el Partido Politico Capacitado que Ud. haya seleccionado. Si Ud. no se afilia a un partido politico capacitado, ponge una "X" delante de las palabras "Se niega a declarar," a marque la casilla delante de "Otro" y ponga alli el nombre de algun incapacitado partido politico. Si Ud morca cualquiera de estas dos últimas casillas, recibira una balota no partidoria, y no se le permitirá votar por candidatos partidaries en la elección primaria.
8. Escriba con letras de molde su profesion especifica, tal como enfermere, corpintero, emo de casa, etc.
9. OPCIONAL: Su número telefónico es opcional. Si Ud. le suministra, sera parte del registro disponible el publico.
10. Ponga una "X" on la casilla apropieda, para recibir su material electoral en el idioma que Ud. prefiera.
11. Despues de llenar el Afidávit (y la Sección de Provia Empadronamiento si corresponde) firma y ponga la fecha en el Afidávit (usando su escriture normal).
12. Si Ud. necesita asistencia y alguien le ayuda a llenar el afidávit, pidale a esa persona que firme el afidávit, debajo de su firma.
13. SECCION DE PREVIA EMPADRONAMIENTO: Si Ud. está empadronado actualmente para votar en cualquier luger, llene el afidávit, poniendo su nombre, dirección y el partido politico al cual estó actualmente afiliada.

DEVUELVA LA DECLARACION JURADA (AFIDAVIT) AL SECRETARIO DEL CONDADO O REGISTRADOR DE VOTANTES:

Si Ud. devuelva esta tarjeta por correo, la fecha y of matersellas debjen ser de por lo menos 29 dias antes de la

elección para que su registración sea válido para eso elección.

Cuando acepta esta tarjeta de alguien que la ha completado, Ud. debe entregarle o enviarla por correo dentro de 3 dias a la dirección que se encuentra en el otro lado de esta tarjeta.

ATTENTION VOTER:

If you do not mail your affidavit personally, have this receipt signed by the person who takes it from you and keep it until you receive your Voter Notification Card. This receipt will be used to investigate any cases in which that person does not mail or deliver it to the County Clerk or Registrar of Voters within the time limit required by law.

ATENCION VOTANTE:

Si Ud. no envia por correo su declaración jurada (afidavit) Ud. misma, pidalo a la persona a quiene Ud. se lo entrogo, que firme este recibe y ?????? Ud. con el mismo ????? que recibe su Tarjeta de Notificación el Votante. Este recibe se usera para investigar aquellas casos en que dicha persona no envio el afidvait para correo o no se lo entregó al Secretario del Condado (County Clerk) dentro del plase provista por le ley.

ZC 420409

Person Receiving Affidavit From Voter
Persona recibiendo el afidávit del votante

SIGNATURE-FIRMA

_____

Address-direccion

_____

_____

Telephone-telefono Date-fecha

EXHIBIT "B"

OFFICE OF THE DISTRICT ATTORNEY
MONTEREY COUNTY

Memorandum

TO: Mr. Ross Underwood
Election Department

DATE 4/21/82

FROM: John M. Phillips, Assistant D.A.

SUBJECT

As I mentioned in our telephone conversation, we are looking into the newly registered persons of foreign birth to determine what percentage of them are in fact eligible to vote. We are requesting, therefore, that you obtain in some random fashion the names and date of birth of 25 persons of new registration whose affidavit of registration reflect (1) a foreign country as a place of birth and (2) a preference for election material in a language other than English. We would request that said names and dates of birth be forwarded to us sometime before April 30, 1982 so that we can in turn forward it to the U.S. Attorney's office.

Again, we are requesting that this matter be kept strictly confidential between us.

ak

EXHIBIT "C"

ELECTION DEPARTMENT
MONTEREY COUNTY

Memorandum

TO: Mr. John M. Phillips, Asst. D.A.

DATE 4/30/82

FROM: Betty L. Bloomer, Asst. Registrar of Voters

SUBJECT: Attached Copies of Affidavits

Per your request dated 4/21/82, we are forwarding to you Certified Copies of the attached Affidavits of Registration. If We can be of any further assistance, contact our office.

blb

Exhibit C

May 4, 1982

Mr. Joseph P. Russoniello
UNITED STATES ATTORNEY
Northern District of California
16th Floor, Federal Building, Box 36055
450 Golden Gate Avenue
San Francisco, California 94102

Dear Mr. Russoniello:

The District Attorney, Mr. William D. Curtis, has asked me to respond to your letter dated April 19, 1982 concerning the possible inappropriate voter registration of aliens.

As you requested, we asked the Monterey County Registrar of Voters to select at random, 25 persons whose affidavits of registration reflect foreign country as the place of birth and a preference for election materials in a language other than English. The affidavits selected by the Registrar of Voters are enclosed herewith.

If we understand correctly, you will check these 25 submissions with the Immigration and Naturalization Service to determine the number of these individuals who are ineligible to vote and you expect to give us the results of this review on or about May 7, 1982.

I trust the enclosures provide the information you require. If anything further is needed, please let me know. I can be reached at 408-758-4626.

Very truly yours,

Thomas A. Kenan
Administrative Assistant

TAK:smb
Enclosures

Exhibit D

U.S. Department of Justice

United States Attorney
Northern District of California

16th Floor Federal Building – Box 36055
450 Golden Gate Avenue
San Francisco, California 94102

Branch Office
675 N. First Street, Suite 508
San Jose, California 95112

May 26, 1982

Honorable William D. Curtis
District Attorney
Monterey County
240 Church Street
Post Office Box 1369
Salinas, California 93902

Re: Primary Election: June 8, 1982
Possible Inappropriate Voter Registration
of Aliens

Dear Mr. Curtis:

I refer you to my letter to you dated April 19, 1982 and our subsequent written and telephonic communications regarding the above-captioned subject.

INTRODUCTION

Let me express my appreciation to you and to your staff and your colleagues in the County Registrar's Office without whose assistance and cooperation we would not

have been able to progress as far as we have in determining whether a problem exists that requires further action.

CONCLUSION

I regret but am compelled to say that in my judgment there *is* a serious problem that demands further attention.

ENCLOSURES

Enclosed find the following materials:

1. A spread sheet showing the overall statistical data developed from the respective submissions and the follow-up performed (an explanation of certain critical aspects follows).
2. A printout list of the information developed specifically with respect to your submission.
3. A copy of my May 6, 1982 letter to Secretary of State Eu stating my investigative objectives, the scope of the investigation, and a recommendation for modifying the Registration Affidavit format to minimize the apparent confusion registrants have faced and to eliminate fraud.
4. An interview sheet designed to elicit needed information regarding (a) eligibility to vote and (b) circumstances surrounding the involved registration.

THE SPREAD SHEET

Seven of the nine counties submitted information substantially in accordance with my April 19 request. Santa Cruz provided the names of over seventy persons who asked for bilingual voting materials but no birth dates. As soon as we receive the additional information we will be able to analyze the data we develop from the appropriate record check. San Francisco submitted seventy names; thirty-five of those represented U.S. born persons so there was no need to find out how many of these were U.S. citizens, presumably all were; of the other thirty-five, three re-

quested voting material in languages other than English and they are included in the analysis. The other names submitted were of little use in identifying any present problem of registering persons unlawfully.

Of the 168 names submitted for which bilingual voting materials were requested, 55 (37%) were positively identified as naturalized citizens, 45 (29%) were identified either positively as illegal aliens, probably legal permanent residents (LPRs) or possibly either illegal aliens or LPRs. For 68 persons (39.9%) neither the INS nor the FBI Identification Division had any record of these persons.

The spread sheet shows that further federal record checking is being done in our effort to further identify persons in columns No. 4, 5 and 6.

The absence of any record in either the FBI or INS systems is not conclusive that the person is ineligible to vote but it is presumptive of that fact for the reason that until February 1982 all persons who were fingerprinted in the course of pursuing naturalization had their fingerprints forwarded to the Identification Division of the FBI where they were permanently stored. If their fingerprints are not found in the Identification Files, a strong presumption exists that they have not been naturalized. This does not, of course, eliminate the possibility that they have "derivative citizenship" acquired because one or both parents were U.S. citizens and they acquired citizenship automatically thereby, but the interviews should establish such a fact, if it is a fact.

THE INTERVIEW

a) *Conducting of Interviews*

There is not now any reason to believe that any of the persons registered to vote who are subjects of interviews have deliberately made a false statement regarding their eligibility though such evidence may develop later.

If for any reason you are unable to conduct the interviews I would appreciate your earliest advice of this fact so other arrangements can be made to get this done.

b) *The Interview Sheet*

For consistency and to facilitate the obtaining of information I recommend you use the Interview Sheet enclosed. It is self-explanatory and focuses on (a) the basis claimed for citizenship, (b) the name of the person at the time of naturalization, (c) the date and location of naturalization, (d) identification of any documents supporting the claim of citizenship and, in the case of persons who are not citizens (e) the circumstances surrounding their registering to vote.

PRESS ADVISORY

You will recall that I earlier advised by April 19 letter that I saw no reason to issue any press advisory until after the interviews were conducted (page 3, paragraph 6), but delaying any statement will not be possible now in light of the extensive coverage this investigation has already received. I propose to advise the media on Friday, May 28, 1982 what the preliminary results are and that further investigation has been requested and is being undertaken. Any further thoughts on this matter would be appreciated.

Even on the basis of the preliminary review and before deciding that the "NO RECORDS" are, for the most part, ineligible to vote, I suggest you advise your respective Registrars of the results to alert them to the facts.

I will be in touch with you further by phone to discuss any other appropriate action.

Very truly yours,

/s/ JOSEPH P. RUSSONIELLO

Joseph P. Russoniello
United States Attorney

Enclosures

COUNTY	TOTAL # OF NAMES SUBMITTED (1)	TOTAL # REQ'ING BILINGUAL BALLOTS (2)	POSITIVE INDEX AS CITIZENS (3)	LPRs (4)	ILLEGAL ALIEN (5)	OTHER QUESTIONABLE (6)	PROB. MILITARY DESERTERS (7)	NO FBI OR INS RECORD (8)	FBI CHECK PENDING (9)	TO BE INTERVIEWED (10)
ALAMEDA	32	32	10	6	1	5	0	12	5	22
CONTRA COSTA	25	25	12	1	1	3	0	8	2	12
SAN MATEO	25	25	8	2	0	5	0	10	5	17
SANTA CLARA	25	25	8	1	1	0	0	15	1	17
MAPS	23 (22)	23 (22)	8 (7)	3	1	4	0	7	2	16
MONTEREY	21	21	6	5	0	1	0	9	1	15
SONOMA	16 (15)	15	4	3	1	2	0	6 (5)	1	11 (10)
SAN FRANCISCO	35	3	0	0	0	1	0	2	0	3
TOTALS		168	55	19	5	31		68		
			32.7% of total		45 27.4% of total			39.9% of total		

EXHIBIT "E"

INTERVIEW SHEET

NAME _____ DATE OF INTERVIEW _____

MAIDEN NAME (if applicable) _____

ARE YOU A CITIZEN OF THE U.S. YES ___ NO ___ NOT SURE ___

IF YOU ARE A CITIZEN, HOW DID YOU ACQUIRE IT?

a) BORN IN U.S. _____

b) NATURALIZATION _____

c) OTHER (explain) _____

_____

_____

_____

_____

IF BY NATURALIZATION,

a) FULL NAME WHEN NATURALIZED _____

b) PLACE WHERE NATURALIZED _____

c) YEAR OF NATURALIZATION _____

d) ANY DOCUMENTS? DESCRIBE _____

_____

IF NOT A CITIZEN, BUT REGISTERED TO VOTE,

a) DID SOMEONE ASSIST YOU IN REGISTERING? YES _____ NO _____

b) IF YES, WHO? _____

c) IF YES, BUT DON'T KNOW NAME OF PERSON, WHEN AND WHERE (e.g. door to door campaign, on street, supermarket, dance, political event, etc.)? _____

_____

d) DID PERSON IDENTIFY ORGANIZATION OR AFFILIATION? _____

e) IF SO, WHAT ORGANIZATION? _____

_____

NAME OF INTERVIEWER

EXHIBIT "F"

INTERVIEW SHEET

NAME _____ DATE OF INTERVIEW _____

MAIDEN NAME (if applicable) _____

ARE YOU A CITIZEN OF THE U.S. YES ___ NO ___ NOT SURE ___

IF YOU ARE A CITIZEN, HOW DID YOU ACQUIRE IT?

a) BORN IN U.S. _____

b) NATURALIZATION _____

c) OTHER (explain) _____

_____

_____

_____

_____

IF BY NATURALIZATION,

a) FULL NAME WHEN NATURALIZED _____

b) PLACE WHERE NATURALIZED _____

c) YEAR OF NATURALIZATION _____

d) ANY DOCUMENTS? DESCRIBE _____

_____

IF NOT A CITIZEN, BUT REGISTERED TO VOTE,

a) DID SOMEONE ASSIST YOU IN REGISTERING? YES _____ NO _____

b) IF YES, WHO? _____

_____

NAME OF INTERVIEWER

EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Civil Action No. C-82-2102-SW

JOSE J. OLAGUES, ET AL., PLAINTIFF,

v.

JOSEPH P. RUSSONIELLO, ET AL., DEFENDANTS.

AFFIDAVIT OF DAVID N. ILCHERT

I, DAVID N. ILCHERT, BEING DULY SWORN, DEPOSE AND SAY AS FOLLOWS:

(1) I am the District Director of the Immigration and Naturalization Service for the San Francisco, California District.

(2) I have personal knowledge of the facts stated herein.

(3) I have jurisdiction over immigration matters within the State of Nevada and the northen counties of California by delegation from the Attorney General of The United States.

(4) I am the custodian of records of the Immigration and Naturalization Service which are within my jurisdiction.

(5) The records of the Immigration and Naturalization Service are subject to the provisions and exemptions of Section 552, Title 5, of the United States Code (known as the Freedom of Information Act) and Section 552a, Title 5, of the United States Code (known as the Privacy Act).

(6) I have authority to grant or deny requests for information from records of the Immigration and Naturalization Service which are sought.

(7) Requests for information from records of the Immigration and Naturalization Service were made by Joseph P. Russoniello, United States Attorney, who is the Chief Federal law enforcement officer for the Northern District of California.

(8) The information which was requested by the United States Attorney was for verification of the citizenship or immigration status of named individuals.

(9) Information obtained from Immigration and Naturalization Service records concerning the citizenship or immigration status of named individuals, where available from Service records, was transmitted to the United States Attorney in compliance with his request.

(10) In order to respond with the utmost accuracy to Mr. Russoniello's request, Service officers also reviewed Federal and State court naturalization records which are public records and transmitted information so obtained.

(11) It is the official position of the Immigration and Naturalization Service that status information which merely identifies a person's citizenship or immigration status is not information covered by the provisions of the Privacy Act. Such information would be provided to any requesting party. Most information regarding citizenship status can be obtained from Federal or State court records which are a matter of public record.

(12) Even if information pertaining to citizenship or immigration status were subject to the provisions of the Freedom of Information Act or the Privacy Act, the Freedom of Information Act

requires the release of such information unless expressly exempted from disclosure by the Freedom of Information Act.

(13) I know of no such exemption which would allow us to refuse to disclose information on the citizenship or immigration status of an individual.

(14) The term "Agency" is defined in the Freedom of Information Act such as to include the whole Department of Justice of which the office of the United States Attorney and the Immigration and Naturalization Service are components. As an officer of the same Agency as the Immigration and Naturalization Service, the United States Attorney has access to records of the Immigration and Naturalization Service.

(15) It is my understanding that a District Director of the Immigration and Naturalization Service is authorized to make disclosure of information covered by the terms of the Freedom of Information Act and Privacy Act to an agency engaged in a law enforcement investigation where records indicate a potential violation of law.

(16) A failure to disclose information not exempt from disclosure may subject the Immigration and Naturalization Service or myself to possible civil or criminal penalties.

(17) In my opinion I am compelled by law to disclose information pertaining to the citizenship or immigration status of individuals which is contained in records of the Immigration and Naturalization Service. Even if such disclosure is not mandatory it is permissible and within my authority. The actions taken by me which are referred to in paragraphs nine (9) and ten (10) above were taken with the belief that such actions were in full compliance with applicable law.

(18) I was not, at the time of my actions stated herein, nor have I ever been aware at anytime of any statutory or constitutional rights of any individuals which would be violated by the verification of citizenship or immigration status upon the request of a United States Attorney.

/s/ DAVID W. ILCHERT
David W. Ilchert
District Director
Immigration & Naturalization Service

Subscribed and sworn to before me
at San Francisco, California this
27th day of August 1982.

CHRIS JAY
Chris Jay
Notary Public

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2102-SW

JOSE J. OLAGUES, ET AL., PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, ET AL., DEFENDANTS.

DECLARATION OF EEVE LEWIS

I, EVE LEWIS, hereby declare as follows:

1. I am, and at pertinent times was, the Registrar of Voters for the County of Sonoma.

2. In April, 1982, my office was requested by Mr. Gene L. Tunney, District Attorney for the County of Sonoma, to provide a sampling of voter names as initially requested by Mr. Joseph P. Russoniello, United States Attorney for the Northern District of California.

3. My office took a sample of 16 names as requested and forwarded the information to the Office of the United States Attorney for the Northern District of California.

4. All information provided came from public records, available to any member of the public upon appropriate request.

5. I am required by law to provide such public information upon appropriate request.

6. I see nothing illegal or improper about the above request or about my actions in complying with it.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 22nd day of September, 1982, at Santa Rosa, California.

/s/ EVE LEWIS
Eeve Lewis

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NO. C-82-2102-SW

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED, ET AL., PLAINTIFF,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA, ET AL., DEFENDANTS.

DECLARATION OF GEORGE MANN

I, GEORGE MANN, declare that:

1. I am the Registrar of Voters for Santa Clara County and I have been the Registrar for fifteen (15) years.

2. I am personally knowledgeable of those matters stated hereafter, except as to those matters with respect to which I am informed and believe them to be true, which information and belief is asserted hereafter as to such matters, where appropriate.

3. After reading an article in the San Jose Mercury News on February 8, 1981, I orally requested the District Attorney's Office to investigate possible voter registration fraud in this County.

4. I cooperated in good faith with requests from the Santa Clara County District Attorney's Office for information concerning persons registered to vote in this County.

Dated: September 20, 1982.

/s/ GEORGE MANN
George Mann *Registrar of Voters*

SGL:lg

IN THE SUPERIOR COURT OF THE
STATE OF CALIFORNIA IN AND FOR
THE COUNTY OF ALAMEDA

No. C-82-2102-SW

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED, ET AL., PLAINTIFF,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA, ET AL., DEFENDANTS.

DECLARATION OF JOHN J. MEEHAN

I, JOHN J. MEEHAN declare that:

1. I am District Attorney in and for the County of Alameda, State of California.

2. I am personally knowledgeable of the matters stated hereafter except as to those matters with respect to which I am informed and believe to be true, which information and belief is asserted hereafter as to such matters where appropriate.

3. On or about April 19, 1982 I received a letter from the United States Attorney for the Northern District of California, Joseph P. Russoniello. The said letter which is attached hereto as Exhibit 1 and by this reference made a part hereof, requested that I provide to the U.S. Attorney the names and dates of birth of 25 persons randomly selected whose affidavits of registration on Alameda County's election rolls indicated a foreign country as place of birth and a preference for election materials in a language other than English. (A copy of an identical letter, directed by Mr. Russoniello to Honorable William

O'Malley, District Attorney for Contra Costa County, is included as Exhibit 1, to plaintiffs' original complaint in this action.)

4. Sometime after receiving the aforementioned letter from Mr. Russoniello and in response to the requests contained therein, my office commenced an investigation concerning the existence of any illegality in voter registration practices, which investigation is ongoing. It is also my belief that inasmuch as this criminal investigation is ongoing, that any all information pertaining to it is privileged from discovery.

5. It is my opinion and belief however, as an attorney with over 20 years experience in this office that there is no illegality or irregularity in the manner in which this investigation was initiated or has been conducted by any of the offices involved.

Dated:

/s/ JOHN J. MEEHAN

John J. Meehan
District Attorney in and for
The County of Alameda,
State of California

April 19, 1982

Honorable John J. Meehan
District Attorney
Alameda County
Courthouse
1225 Fallon Street, Room 900
Oakland, California 94612

Re: Primary Election: June 8, 1982
Possible Inappropriate Voter Registration
of Aliens

Dear Mr. Meehan:

Your county, together with the counties of Contra Costa, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz and Sonoma, has previously been identified as effected by the provisions of 42 United States Code, Section 1973aa-1a and following, commonly known as the Bilingual Election Requirement. Those provisions require that each effected country provide "any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots," in the Spanish language and, in the case of San Francisco County, in the Chinese language in addition to English.

As a corollary to the effected counties' efforts to comply, several groups have undertaken voter registration drives targeted toward registering individuals whose primary language is Spanish or Chinese and we do not challenge their right to do so. However, an investigation undertaken by the Santa Clara County District Attorney at the request of Voter Registrar George Mann beginning in about February 1981, disclosed that with respect to a test

sample of 100 newly-registered persons of foreign birth, twenty were determined not to be U.S. Citizens and eleven others could not be located. The investigation disclosed that those persons who were not U.S. Citizens, but who did register erroneously, believed they were eligible to vote because they were either married to U.S. Citizens or had been residents of the United States for a long period of time.

We are concerned, as I am sure you are, that if as many as thirty percent of the newly-registered foreign born persons vote even though they are not eligible to do so, especially given the expected intensive effort to register non-English speaking persons, the elections to be held June 8 may be so effected that the results are subject to court challenge. Any successful challenge will mean considerable expense, both to the counties and to the candidates involved therein.

It is too early to sound any alarm but there is, in my judgment, a sufficient basis for our undertaking some mutual effort to determine the extent to which persons are being registered who are not entitled to vote. If such be the case it seems to me that the fault or blame, if any need be leveled, lies with the registration affidavit form itself in that even though question No. 6 asks for the state in the USA or foreign country of birth, there is no follow-up question eliciting information as to the date and place of naturalization if a foreign country *is* the place of birth. Even though the affidavit contains the statement, "I am a citizen of the United States . . . ," as has previously been shown, a significant number of persons believed that citizenship was synonomous with residency and/or could be acquired by marriage alone. (I enclose a copy of the affidavit which I understand is used in one form or another in your county for your information.)

Before any accurate assessment can be made that we have a problem with respect to the June election, we should at

least sample the newly-registered persons of foreign birth to determine what percentage of them are in fact eligible to vote and to that end I propose the following:

1. Through your good offices, the Registrar of Voters should be asked to submit at random the names and dates of birth of twenty-five persons of new registration, whose affidavits of registration reflect (1) a foreign country as the place of birth and (2) a preference for election materials in a language other than English.

2. Those names and dates of birth should be forwarded to us not later than April 30, 1982.

3. Upon receipt, we will forward the twenty-five names received from your Registrar and the twenty-five names received from the Registrars in all other counties aforenamed to the Immigration and Naturalization Service who will scan their computer for the purpose of determining the number of persons known to be naturalized or, in the alternative, known to be resident aliens ineligible to vote. They will report their results to us and we will pass them on to you by no later than May 7, 1982.

4. As to each person with respect to whom we are unable to state with surety that he/she has been naturalized, a follow-up interview should be conducted by your office to determine (1) the basis upon which they claim citizenship and entitlement to vote and (2) in cases in which they are unable to prove citizenship, what representations were made to them by Registrars as to their qualification to vote. These follow-up interviews should be given priority so that all investigations are completed by May 21.

5. On May 24 we will check with each DA's office to determine the results of their investigation and will report to each office on May 25 the results of the overall investigation.

6. Depending upon those results and the extent to which inappropriate registration is determined, we should

decide by mutual agreement what further action to take. In this connnection, a joint press conference alerting the general public and prospective unauthorized voters in particular of the results of our investigation might be appropriate. Alternatively, the respective Registrars may choose to take some action with regard to each potential voter effected by our survey to require proof of citizenship before permitting that person to vote. The various alternatives will require considerable discussion and your input as well as the input of the Registrar of Voters who might be required to take some action.

For our part, we do not contemplate initiating prosecutions against individual registrants as we are empowered to do pursuant to the provisions of 42 U.S.C., Section 1973dd-3(c), but will seriously consider such prosecutions against persons whom the evidence shows deliberately "conspired with another individual for the purpose of encouraging the giving of false information in order to establish the eligibility of any individual to register . . ." Your would of course be free to pursue whatever action you deemed appropriate as provided for in Section 29200 of the California Elections Code.

Because of the sensitivity of this matter and because it is premature to suggest that the June 8 election is in jeopardy, we will refrain from issuing any press advisory or making any statement regarding this ongoing investigation and will consult with you before taking any such action. I would appreciate your doing likewise and hearing from you if you consider some media notification to be appropriate at this time.

If you have any question concerning the foregoing or would like to discuss the matter further, Chief Assistant United States Attorney William T. McGivern (556-8477) will be

coordinating the effort on our end and will make himself available to discuss planning with you.

Very truly yours,

JOSEPH P. RUSSONIELLO
United States Attorney

Enclosure

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

NO. C-82-2102-SW

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED; ET AL., PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY, AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA; WILLIAM A. O'MALLEY, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY OF CONTRA COSTA COUNTY; ET AL., DEFENDANTS.

DECLARATION OF WILLIAM A. O'MALLEY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

I, WILLIAM A. O'MALLEY, declare that:

1. I am, and during all the times referred to herein was, the duly elected District Attorney of the County of Contra Costa, California.

2. I am personally knowledgeable of those matters stated herein, except as to those matters with respect to which I am informed and believe them to be true, which information and belief is asserted hereafter as to such matters, where appropriate.

3. On or about April 20, 1982, I received a letter dated April 19, 1982, from Joseph P. Russoniello, whom I knew to be the United States Attorney for the Northern District of California. In that letter, Mr. Russoniello informed me of an investigation conducted by the Santa Clara County District Attorney's Office beginning in February, 1981, which showed that, in that county, of one hundred (100)

newly registered persons of foreign birth, twenty (20) were found not to be United States citizens and eleven (11) others could not be located. Mr. Russoniello further informed me that of those person who were not United States citizens, but were registered to vote, believed they were eligible to vote because they were married to United States citizens or had resided in the United States for a long period of time.

Based on that information, Mr. Russoniello asked me to forward to our County Registrar of Voters a request to submit a random sampling of twenty-five (25) names of foreign born voter registrants who also requested bilingual materials and to send those names to the United States Attorney's Office to be checked against the Immigration and Naturalization Service list of naturalized citizens and resident aliens. A true and correct copy of that letter is attached hereto and designated Exhibit A and incorporated as if set forth fully herein.

4. Based on the information contained in Mr. Russoniello's letter, I determined that sufficient cause existed to investigate the incidence of voters in Contra Costa County who may have registered to vote under the erroneous belief that they were eligible to vote either because of marriage to a United States citizen or lengthy stay in this country. I believed that that type of a misunderstanding was most likely to arise among voters who were foreign born and who relied on conditions of eligibility translated into another language on the voter registration forms. I also believed that the proper and least intrusive method of initiating such an investigation was by comparing lists of foreign born voter registrants who requested bilingual materials against an official list of naturalized United States citizens and resident aliens.

5. Therefore, on a date unknown, but within one (1) week of receiving the letter from Mr. Russoniello, I forwarded a copy of the letter to Lon Underwood, Registrar

of Voters for Contra Costa County, and asked Mr. Underwood to comply with Mr. Russoniello's request.

6. On April 23, 1982, I forwarded to the United States Attorney a list of twenty-five (25) randomly selected names of voter registrants who requested bilingual ballot materials.

7. Shortly after May 26, 1982, I received a second letter from Mr. Russoniello informing me, by way of an attached statistical breakdown sheet, that, of the twenty-five (25) names submitted to the United States Attorney's Office, twelve (12) were positively identified as citizens, one (1) was a legal permanent resident, one (1) was an illegal alien, three (3) were of questionable status, and eight (8) had no INS record on file. Mr. Russoniello asked me to interview those who were of questionable status or had no INS record on file as to whether or not they were citizens, if they were born in the United States or naturalized, if naturalized, where and when, and how the person was registered and by whom. A true and correct copy of that letter and the statistical breakdown sheet is attached hereto and designated as Exhibit B and incorporated as if set forth fully herein.

8. Based on the information contained in Mr. Russoniello's letter of May 26, 1982, I formed the opinion that some of the voter registrants whose names were sent to the United States Attorney's Office were, in fact, ineligible to vote. However, I also formed the opinion at that time that insufficient cause existed to believe that any criminal intent existed in the method used to register those people to vote.

9. Therefore, I directed members of my staff to send letters to those twelve (12) persons who were not identified as United States citizens or resident aliens to determine if, in fact, they were naturalized citizens. I directed that the letters addressed to those persons ask only about their citizenship status and not about the manner in which the person was registered to vote. A true and correct copy of

that letter and its attached questionnaire is attached hereto and designated Exhibit C and incorporated as if set forth fully herein.

10. Of those twelve (12) letters, I received a response from eight (8) persons, six (6) of whom gave information verifying their naturalization and two (2) of whom admitted that they were not United States citizens. Four (4) of the twelve (12) letters were returned not deliverable, "Moved, left no forwarding address", and were returned after a second attempt to deliver them by registered mail.

11. After reviewing the responses from the above eight (8) persons, I formed the opinion that there was insufficient evidence of any criminal intent with respect to their registering to vote. I determined at that time that, absent a showing of violation of law, no further investigation was required.

12. I am informed and based on that information I believe that on September 10, 1982, at the request of United States Attorney Russoniello, FBI Agent Dietrick requested the voting status information which my office had obtained from those persons whom we had contacted and attempted to contact. I am informed by Contra Costa County Senior Deputy District Attorney Gary Yancey and based on that information I believe that Mr. Yancey furnished Agent Dietrick with the names of the four (4) persons we could not contact and the information we had received from those eight (8) persons who responded to our letter.

I declare under penalty of perjury that the foregoing is true and correct of my own knowledge except as to those matter of which I am informed and believe, as to those matters, based on the information received, I believe them to be true.

Executed this 22nd day of September, 1982, at Martinez, California.

/s/ WILLIAM A. O'MALLEY

William A. O'Malley
District Attorney
Contra Costa County

Exhibit A

U.S. Department of Justice

United States Attorney
Northern District of California

16th Floor Federal Building – Box 36055
450 Golden Gate Avenue
San Francisco, California 94102

Branch Office
675 N. First Street, Suite 508
San Jose, California 95112

April 19, 1982

Honorable William A. O'Malley
District Attorney
Contra Costa County
Post Office Box 670
Courthouse
Main and Court Street
Martinez, California 94553

Re: Primary Election: June 8, 1982 –
Possible Inappropriate Voter Registration
of Aliens

Dear Mr. O'Malley:

Your county, together with the counties of Alameda, Monterey, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz and Sonoma, has previously been identified as effected by the provisions of 42 United States Code, Section 1973aa-1a and following, commonly known as the Bilingual Election Requirement. Those provisions require that each effected county provide "any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process,

including ballots," in the Spanish language and, in the case of San Francisco County, in the Chinese language in addition to English.

As a corollary to the effected counties' efforts to comply, several groups have undertaken voter registration drives targeted toward registering individuals whose primary language is Spanish or Chinese and we do not challenge their right to do so. However, an investigation undertaken by the Santa Clara County District Attorney at the request of Voter Registrar George Mann beginning in about February 1981, disclosed that with respect to a test sample of 100 newly-registered persons of foreign birth, twenty were determined not to be U.S. Citizens and eleven others could not be located. The investigation disclosed that those persons who were not U.S. Citizens, but who did register erroneously, believed they were eligible to vote because they were either married to U.S. Citizens or had been residents of the United States for a long period of time.

We are concerned, as I am sure you are, that if as many as thirty percent of the newly-registered foreign born persons vote even though they are not eligible to do so, especially given the expected intensive effort to register non-English speaking persons, the elections to be held June 8 may be so effected that the results are subject to court challenge. Any successful challenge will mean considerable expense, both to the counties and to the candidates involved therein.

It is too early to sound any alarm but there is, in my judgment, a sufficient basis for our undertaking some mutual effort to determine the extent to which persons are being registered who are not entitled to vote. If such be the case it seems to me that the fault or blame, if any need be leveled, lies with the registration affidavit form itself in that even though question No. 6 asks for the state in the USA or foreign country of birth, there is no follow-up

question eliciting information as to the date and place of naturalization if a foreign country *is* the place of birth. Even though the affidavit contains the statement, "I am a citizen of the United States . . . ," as has previously been shown, a significant number of persons believed that citizenship was synonomous with residency and/or could be acquired by marriage alone. (I enclose a copy of the affidavit which I understand is used in one form or another in your county for your information.)

Before any accurate assessment can be made that we have a problem with respect to the June election, we should at least sample the newly-registered persons of foreign birth to determine what percentage of them are in fact eligible to vote and to that end I propose the following:

1. Through your good offices, the Registrar of Voters should be asked to submit at random the names and dates of birth of twenty-five persons of new registration, whose affidavits of registration reflect (1) a foreign country as the place of birth and (2) a preference for election materials in a language other than English.

2. Those names and dates of birth should be forwarded to us not later than April 30, 1982.

3. Upon receipt, we will forward the twenty-five names received from your Registrar and the twenty-five names received from the Registrars in all other counties aforenamed to the Immigration and Naturalization Service who will scan their computer for the purpose of determining the number of persons known to be naturalized or, in the alternative, known to be resident aliens ineligible to vote. They will report their results to us and we will pass them on to you by no later than May 7, 1982.

4. As to each person with respect to whom we are unable to state with surety that he/she has been naturalized, a follow-up interview should be conducted by your office to determine (1) the basis upon which they claim citizenship and entitlement to vote and (2) in cases in

which they are unable to prove citizenship, what representations were made to them by Registrars as to their qualification to vote. These follow-up interviews should be given priority so that all investigations are completed by May 21.

5. On May 24 we will check with each DA's office to determine the results of their investigation and will report to each office on May 25 the results of the overall investigation.

6. Depending upon those results and the extent to which inappropriate registration is determined, we should decide by mutual agreement what further action to take. In this connnection, a joint press conference alerting the general public and prospective unauthorized voters in particular of the results of our investigation might be appropriate. Alternatively, the respective Registrars may choose to take some action with regard to each potential voter effected by our survey to require proof of citizenship before permitting that person to vote. The various alternatives will require considerable discussion and your input as well as the input of the Registrar of Voters who might be required to take some action.

For our part, we do not contemplate initiating prosecutions against individual registrants as we are empowered to do pursuant to the provisions of 42 U.S.C., Section 1973dd-3(c), but will seriously consider such prosecutions against persons whom the evidence shows deliberately "conspired with another individual for the purpose of encouraging the giving of false information in order to establish the eligibility of any individual to register . . ." Your would of course be free to pursue whatever action you deemed appropriate as provided for in Section 29200 of the California Elections Code.

Because of the sensitivity of this matter and because it is premature to suggest that the June 8 election is in jeopardy, we will refrain from issuing any press advisory or making

any statement regarding this ongoing investigation and will consult with you before taking any such action. I would appreciate your doing likewise and hearing from you if you consider some media notification to be appropriate at this time.

If you have any question concerning the foregoing or would like to discuss the matter further, Chief Assistant United States Attorney William T. McGivern (556-8477) will be coordinating the effort on our end and will make himself available to discuss planning with you.

Very truly yours,

/s/ JOSEPH P. RUSSONIELLO
Joseph P. Russoniello
United States Attorney

Enclosure

EXHIBIT B

U.S. Department of Justice

United States Attorney
Northern District of California

16th Floor Federal Building – Box 36055
450 Golden Gate Avenue
San Francisco, California 94102

Branch Office
675 N. First Street, Suite 508
San Jose, California 95112

May 26, 1982

Honorable William A. O'Malley
District Attorney
Contra Costa County
Post Office Box 670
Courthouse
Main and Court Street
Martinez, California 94553

Re: Primary Election: June 8, 1982
Possible Inappropriate Voter Registration
of Aliens

Dear Mr. O'Malley:

I refer you to my letter to you dated April 19, 1982 and our subsequent written and telephonic communications regarding the above-captioned subject.

INTRODUCTION

Let me express my appreciation to you and to your staff and your colleagues in the County Registrar's Office without whose assistance and cooperation we would not have been able to progress as far as we have in determining whether a problem exists that requires further action.

CONCLUSION

I regret but am compelled to say that in my judgement there *is* a serious problem that demands further attention.

ENCLOSURES

Enclosed find the following materials:

1. A spread sheet showing the overall statistical data developed from the respective submissions and the follow-up performed (an explantion of certain critical aspects follows).
2. A printout list of the information developed specifically with respect to your submission.
3. A copy of my May 6, 1982 letter to Secretary of State Eu stating my investigative objectives, the scope of the investigation, and a recommendation for modifying the Registration Affidavit format to minimize the apparent confusion registrants have faced and to eliminate fraud.
4. An interview sheet designed to elicit needed information regarding (a) eligibility to vote and (b) circumstances surrounding the involved registration.

THE SPREAD SHEET

Seven of the nine counties submitted information substantially in accordance with my April 19 request. Santa Cruz provided the names of over seventy persons who asked for bilingual voting materials but no birth dates. As soon as we receive the additional information we will be able to analyze the data we develop from the appropriate record check. San Francisco submitted seventy names; thirty-five of those represented U.S. born persons so there was no need to find out how many of these were U.S. citizens, presumably all were; of the other thirty-five, three re-

quested voting material in languages other than English and they are included in the analysis. The other names submitted were of little use in identifying any present problem of registering persons unlawfully.

Of the 168 names submitted for which bilingual voting materials were requested, 55 (37%) were positively identified as naturalized citizens, 45 (29%) were identified either positively as illegal aliens, probably legal permanent residents (LPRs) or possibly either illegal aliens or LPRs. For 68 persons (39.9%) neither the INS nor the FBI Identification Division had any record of these persons.

The spread sheet shows that further federal record checking is being done in our effort to further identify persons in columns No. 4, 5 and 6.

The absence of any record in either the FBI or INS systems is not conclusive that the person is ineligible to vote but it is presumptive of that fact for the reason that until February 1982 all persons who were fingerprinted in the course of pursuing naturalization had their fingerprints forwarded to the Identification Division of the FBI where they were permanently stored. If their fingerprints are not found in the Identification Files, a strong presumption exists that they have not been naturalized. This does not, of course, eliminate the possibility that they have "derivative citizenship" acquired because one or both parents were U.S. citizens and they acquired citizenship automatically thereby, but the interviews should establish such a fact, if it is a fact.

THE INTERVIEW

a) *Conducting of Interviews*

There is not now any reason to believe that any of the persons registered to vote who are subjects of interviews have deliberately made a false statement regarding their eligibility though such evidence may develop later.

If for any reason you are unable to conduct the interviews I would appreciate your earliest advice of this fact so other arrangements can be made to get this done.

b) *The Interview Sheet*

For consistency and to facilitate the obtaining of information I recommend you use the Interview Sheet enclosed. It is self-explanatory and focuses on (a) the basis claimed for citizenship, (b) the name of the person at the time of naturalization, (c) the date and location of naturalization, (d) identification of any documents supporting the claim of citizenship and, in the case of persons who are not citizens (e) the circumstances surrounding their registering to vote.

PRESS ADVISORY

You will recall that I earlier advised by April 19 letter that I saw no reason to issue any press advisory until after the interviews were conducted (page 3, paragraph 6), but delaying any statement will not be possible now in light of the extensive coverage this investigation has already received. I propose to advise the media on Friday, May 28, 1982 what the preliminary results are and that further investigation has been requested and is being undertaken. Any further thoughts on this matter would be appreciated.

Even on the basis of the preliminary review and before deciding that the "NO RECORDS" are, for the most part, ineligible to vote, I suggest you advise your respective Registrars of the results to alert them to the facts.

I will be in touch with you further by phone to discuss any other appropriate action.

Very truly yours,

/s/ JOSEPH P. RUSSONIELLO

Joseph P. Russoniello
United States Attorney

Enclosures

COUNTY	TOTAL # OF NAMES SUBMITTED (1)	TOTAL # REQ'ING BILINGUAL BALLOTS (2)	POSITIVE IDENT AS CITIZENS (3)	LPRs (4)	ILLEGAL ALIEN (5)	OTHER QUESTIONABLE (6)	PEND. MILITARY DEFERMENTS (7)	NO FBI OR INS RECORD (8)	FED CHECK PENDING (9)	NO BE INTERVIEWED (10)
ALAMEDA	32	32	10	4	1	5	0	12	5	22
CONTRA COSTA	25	25	12	1	1	3	0	8	2	12
SAN MATEO	25	25	8	2	0	5	0	10	5	11
SANTA CLARA	25	25	8	1	1	0	0	15	1	17
NAPA	23 (22)	23 (22)	8 (7)	3	1	4	0	7	2	16
MONTEREY	21	21	6	5	0	1	0	9	1	15
SONOMA	16 (15)	15	4	3	1	2	0	6 (5)	1	11 (10)
SAN FRANCISCO	35	3	0	0	0	1	0	2	0	3
TOTALS		168	55	19	5	21		68		
					45					
			32.7% of total		27.4% of total			39.9% of total		

EXHIBIT C

Office of District Attorney
Contra Costa County

Court House, Fourth Floor
P.O. Box 670
Martinez, California 94553
(415) 372-4500

William A. O'Malley
District Attorney

June 8, 1982

Estimado(a)

It has been brought to the attention of this office that there is a problem in verifying the accuracy of your voter registration in Contra Costa County. Your cooperation in resolving an ambiguity as to your citizenship status would be of great help in determining whether or not you are properly registered to vote.

Enclosed is a short questionaire [sic] which will elicit the necessary information. Please answer all the questions, then sign and return the form in the self-addressed, stamped envelope provided.

If you have questions please feel free to call Sylvia Galvez at 372-4531.

Thank you for your cooperation in this matter.

Ha llegado a la atención de esta oficina que hay un problema en verificar la exactitud de su registración de vontante en el Condado de Contra Costa. Su cooperación en resolver la incertidumbre de su estado de ciudadaniá seriá de gran ayuda en determinar si esta registrado debidamente para votar o no.

Un corto cuestionario está incluido el cual evocará la información necesaria. Por favor conteste todas las preguntas, luego firme y regrese la forma en el sobre cellado.

Si tiene alguna pregunta, por favor llame a Sylvia Gálvez en el 372-4531.

Gracias por su cooperación en este asunto.

Very truly yours,
Sinceramente

WILLIAM A. O'MALLEY
District Attorney
Abogado del Distrito

/s/ GARY T. YANCEY
Gary T. Yancey
Senior Deputy District Attorney
Asistente Abogado de Distrito

GTY/dc

Enclosure
Incluidos

QUESTIONNAIRE

CUESTIONARIO

NAME _____ DATE _____
NOMBRE FECHA

MAIDEN NAME (if applicable _____
APELLIDO DE SOLTERA (si aplica)

1. ARE YOU A CITIZEN OF THE U.S.? YES ___ NO ___
   ES UD. CIUDADANO DE LOS ESTADOS UNIDOS?

2. IF YOU ARE A NATURALIZED CITIZEN:
   SI ES UD. CIUDADANO NATURALIZADO:
   a) FULL NAME WHEN NATURALIZED _____
   NOMBRE COMPLETO CUANDO SE NATURALIZO

   b) PLACE WHERE NATURALIZED _____
   LUGAR DONDE SE NATURALIZO

   c) YEAR OF NATURALIZATION _____
   AÑO DE LA NATURALIZACION

3. ANY COMMENTS YOU WISH TO MAKE CONCERNING YOUR CITIZENSHIP STATUS IF YOU WERE NOT BORN IN THE U.S. NOR NATURALIZED.

   ANOTE COMENTARIOS QUE DESEA HACER ACERCA DE SU ESTADO DE CIUDADANIA SI UD. NO ES NACIDO EN LOS ESTADOS UNIDOS NI ESTA NATURALIZADO

   _____

   _____

   _____
   SIGNATURE
   FIRMA

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2102-SW

JOSE J. OLAGUES, ET AL., PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, ET AL., DEFENDANTS.

DECLARATION OF SAN FRANCISCO REGISTRAR OF VOTERS JAY PATTERSON IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

I, JAY PATTERSON declare as follows:

1. I am the duly appointed Registrar of Voters of the City and County of San Francisco.

2. In April or May of 1982, I met with Arlo Smith, the District Attorney of the City and County of San Francisco, who showed me a letter he had received from United States Attorney Joseph P. Russoniello asking that Mr. Smith obtain from the Registrar of Voters the names and dates of birth of twenty-five persons of new registration whose affidavits of registration reflect (1) a foreign country as place of birth and (2) a preference for election materials in a language other than English. We also agreed upon the manner in which we would respond to that request. The plan, which I thereafter implemented, involved two steps. The first was to select at random affidavits of registration of 35 persons whose affidavits indicated that they were foreign-born, without regard to whether these persons sought, or disclosed a preference for, election materials in a language other than English. The second step was to select at random affidavits of

registration of 35 persons which would be pulled without regard to any selective criteria whatsoever. After the two sets of affidavits of registration were pulled, as described above, I sent copies of them to District Attorney Arlo Smith.

3. I was informed thereafter by Mr. Smith that Mr. Russoniello had requested Mr. Smith to interview three of the persons whose affidavits of registration I had pulled as described above. Mr. Smith asked me to check the records in the Registrar's Office regarding one of these three persons. I discovered from doing so that one had registered in San Francisco in 1979 and had not voted in San Francisco since that time and I so informed Mr. Smith.

4. The information set forth above include all actions I have taken in response to or in connection with Mr. Russoniello's request as described above, except that I received an anonymous note alleging that a certain individual was an illegal alien who had registered to vote and I informed Mr. Smith of the note and of my belief that the note was prompted by the publicity which arose in response to Mr. Russoniello's request for information, as described above.

5. I believe that the actions which I took regarding this matter, as described above, were entirely lawful and reasonable and did not impinge upon any person's rights under the California or United States Constitution or under any other law. The information provided in response to Mr. Russoniello's request is contained in records which by law are available to the public and is of the type which this office makes available for public inspection at all times.

I declare under penalty of perjury that the foregoing is true and correct and that this verification was executed on September 21, 1982 at San Francisco, California.

/s/ JAY PATTERSON

Jay Patterson

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF ALAMEDA

No. C-82-2102-SW

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED, ET AL., PLAINTIFF,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA, ET AL., DEFENDANTS.

DECLARATION OF JAMES A. RIGGS

I, JAMES A. RIGGS, declare that:

1. I am Registrar of Voters in and for the County of Alameda, State of California.

2. I am personally knowledgeable of the matters stated hereafter except as to those matters with respect to which I am informed and believe them to be true, which information and belief is asserted hereafter as to such matters, where appropriate.

3. I am informed and believe that the Alameda County District Attorney's Office, at the request of the Office of the United States Attorney for the Northern District of California, has commenced, and is conducting an investigation concerning possible irregularities in voter registration affidavits in this county.

4. I have been contacted by the Office of the District Attorney for the County of Alameda concerning the aforementioned investigation. I am informed and believe and on such information and belief assert tnat the nature

of these communications is privileged due to the fact that the District Attorney's criminal investigation is ongoing.

5. It is my belief however that there is nothing illegal or irregular about such an investigation or the manner in which it is being conducted.

Dated:

/s/ JAMES A. RIGGS

James A. Riggs
Registrar of Voters of and for the County of Alameda

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2102-SW

JOSE J. OLAGUES, ET AL., PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, ET AL., DEFENDANTS.

DECLARATION OF JOSEPH P. RUSSONIELLO

I, JOSEPH P. RUSSONIELLO, declare under penalty of perjury that:

1. I am the United States Attorney for the Northern District of California.

2. I am personally knowledgeable of the matters stated hereafter, except as to those matters with respect to which I am informed and believe them to be true, which information and belief is asserted hereafter as to such matters, where appropriate.

3. On March 16, 1982, I was visited at my office in San Francisco by two persons who had previously asked for an appointment to speak with me concerning the issue of voting rights and the costs being incurred by San Francisco to ensure voting rights in the City and County of San Francisco. My meeting with these people took no more than twenty minutes, during the course of which they left me voluminous materials bearing on this issue requesting that I review them. I agreed to do so and to take whatever action I deemed appropriate, if any, regarding the subject of the meeting.

4. Thereafter, and on a date unknown, but at least within the next seven days, I reviewed the materials these visitors had left with me and, in perusing the materials,

saw a copy of a newspaper article that had appeared in the September 17, 1981 issue of the *San Jose Mercury News* reporting that the District Attorney in Santa Clara County, in cooperation with the Immigration and Naturalization Service, had identified a significant number of persons born either in the Philippines or Mexico who, though registered voters, were ineligible to vote because they were not citizens of the United States. The article further reported that "voter registration clerks said many persons of Hispanic origin register in order to cross easily back and forth from Mexico showing their registration receipts to U.S. Customs officials as evidence that they are U.S. citizens." A true and correct copy of this newspaper article is attached hereto and designated Exhibit A and incorporated herein as if set forth in full.

5. After reading the article, paying particular attention to the claim that non-citizens were registering to vote, I obtained a copy of the voter registration form in common use throughout the Northern District of California and reviewed it. A true and correct copy of the voter registration form is attached hereto, designated Exhibit B and incorporated herein as if set forth in full.

6. I noticed in looking at the form that it provided no opportunity for a person born outside the United States to identify the city of naturalization or the date of naturalization and further that, though it contained an admonition to the person registering that he had to be a U.S. citizen, it nowhere described what the criteria for citizenship were.

7. After reviewing the documents aforestated and at least by April 2, 1982, I requested that preliminary legal research of the Voting Rights Act of 1965 and the 1975 amendments thereto be conducted, including a review of the case law thereunder for the purpose of determining whether there was any federal jurisdiction over persons executing voting registration affidavits who were not entitled to vote by reason of non-citizenship. At the same time I

contacted the District Attorney in Santa Clara County to obtain copies of the investigative reports generated by his office and relating to the subject matter set forth in the newspaper article, Exhibit A herein.

8. On or before April 2, 1982, I personally spoke with District Attorney Louis Bergna, Santa Clara County, who expressed his appreciation that someone else was showing sufficient interest in the matter of possible voter registration fraud to pursue investigation and who promised to send me copies of the investigative reports generated by his office.

9. On April 6, 1982, I received a letter from this same Louis P. Bergna enclosing copies of the investigative reports prepared by his staff and suggesting that I review the matter and then call Ray Cunningham of his staff who personally handled the matter and who would be able to answer any other questions I might have concerning the investigation. Included in the material provided was a copy of a *San Jose Mercury* newspaper article dated March 12, 1982, that I had not previously seen. A true and correct copy of the newspaper article is attached hereto and designated Exhibit C and incorporated as if set forth fully herein.

10. Included among the recommended legislative changes proposed by DA Bergna as reported in the article was that the "registrar of voters should be authorized to seek proof of citizenship from foreign-born voters and be capable of purging the names of those not responding to those demands."

11. At or about the same time as I received a copy of Mr. Bergna's letter aforestated the preliminary legal research I requested was completed, leading me to conclude that federal jurisdiction over primary and general elections for federal offices did exist and that there was federal jurisdiction if irregularities were occurring regarding voter registration and/or voting as those matters related to the June 8 California primary elections.

12. After reviewing the reports from Mr. Bergna's office that were included with his letter to me received April 6th, I spoke personally with Ray Cunningham who informed me that the persons interviewed during the course of the DA's investigation were Hispanic in origin whose primary language was Spanish and that a substantial number of those persons improperly registered were confused at the time of registering to vote by representations made to them by deputy registrars that they *were* entitled to vote because they were either married to U.S. citizens or had lived in the United States for a substantial period of time, without more.

13. Based on the information and reports I reviewed I formed the belief and opinion that the problem of persons registering to vote, though not entitled to register to vote, would arise, if at all, among any group of persons who did not speak or understand the English language. To determine whether such a problem did exist, it seemed reasonable to me that the only way to identify that persons who had recently been registered to vote did not speak or understand English would be to look at the voter registration cards themselves and select from among those persons who had requested voter material and ballots in languages other than English since such a request by them would suggest that a language other than English was their primary language.

14. On the basis of the information provided by Mr. Cunningham and as set forth in the Bergna reports coupled with the inherent defect I perceived in the registration forms, i.e., the failure to provide a place for a person to identify the location and date of naturalization, I directed a letter to the District Attorneys in nine of the fifteen counties within the Northern District of California in which counties the Registrar of Voters was required by the bilingual provisions of the Voting Rights Act to provide ballots and voting materials in Spanish as well as English

and in the case of San Francisco in Chinese and Spanish as well as English. A true and correct copy of the latter, substantially identical copies of which were sent to all affected District Attorneys, is attached hereto and marked Exhibit D and incorporated by reference as if set forth fully herein.

15. My purpose for directing the letter to the District Attorneys was to obtain a random sample of recently registered persons requesting bilingual ballots in their counties so as to determine whether the same high incidence of irregularity and ineligible registration as had been determined existed during the Santa Clara District Attorney's study existed in these other counties as well. It was further by intention as expressed in the letter to pursue criminal prosecution against persons who might thereafter be identified as responsible for fraudulently misleading persons to register. It was not my intention, and it was so expressed in the letter, to pursue criminal prosecution against persons who had registered to vote though not eligible to vote, leaving the option to pursue such cases to the local District Attorneys.

16. Shortly thereafter and at a date unknown to me, it was brought to my attention by Robert Moshorak, an INS agent, that the Spanish language admonition to prospective registrants did not accurately translate the English language admonition that a person "must" be a U.S. citizen. I was informed by Mr. Moshorak and believe and on that basis assert that the Spanish translation is that a person "should" be a U.S. citizen. This discovery tended further to support my suspicion that if irregularities in registration occurred at all those irregularities would occur with more frequent incidence among persons requesting ballot and voting registration material in languages other than English.

17. In response to my letter of April 19, 1982, all nine county District Attorneys to whom the request for a sam-

ple was made responded positively, but in varying degrees to the request.

18. Of the names submitted, a total of 168 were subjected to a federal record check which I am informed and believe and on that basis allege included an examination of FBI civil and criminal fingerprint indices, a hand check of the Immigration and Naturalization records at the San Francisco regional office, and a check of the Immigration and Naturalization Service central computer bank files in Washington, D.C.

19. I am informed and believe and on that basis allege that the examination of the persons whose names were submitted to federal record check disclosed that of the 168 persons, no record existed for 68 of them, 55 were positively identified as citizens, and 45 were either positively identified as not citizens or probably not citizens to a certainty of 90%. A true and correct copy of the schedule reflecting the result of the federal record check is attached hereto and designated Exhibit E and incorporated by reference as if set forth fully herein.

20. I reported the results of the federal record check to each of the affected District Attorneys with a request that they conduct interviews of those persons not positively identified as U.S. citizens.

21. As of this date, only San Mateo County has completed its interviewing and I have reviewed the interview forms used to report the results of those interviews and am informed and believe and on that basis allege that of the 25 persons whose names were submitted as a random sample of persons requesting Spanish language voter registration and ballot information from San Mateo County 15 are citizens, 4 are not citizens, and 6 could not be located and their status is unknown.

22. As of this date I do not contemplate that the U.S. Attorney's office or I will participate in any investigative phase of the matter involving possible voter registration

fraud, but rather that all further investigation will be conducted by the Federal Bureau of Investigation and the Immigration and Naturalization Service in San Francisco with their respective responsibilities and as guided by federal law affording jurisdiction to them, the results of which investigation will be reported in the normal course to the U.S. Attorney for prosecutive opinion and/or prosecution.

Dated: SEPTEMBER 21, 1982.

/s/ JOSEPH P. RUSSONIELLO
Joseph P. Russoniello
United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2102-SW

JOSE J. OLAGUES, ET AL., PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, ET AL., DEFENDANTS.

DECLARATION OF SAN FRANCISCO DISTRICT ATTORNEY ARLO SMITH IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

I, ARLO SMITH, de lare as follows:

1. I am the duly elected District Attorney of the City and County of San Francisco.

2. In April of 1982, I received a letter from United States Attorney Joseph P. Russoniello, dated April 19, 1982, in which he asked me to obtain from the Registrar of Voters the names and dates of birth of twenty-five persons of new registration whose affidavits of registration reflect (1) a foreign country as place of birth and (2) a preference for election materials in a language other than English. A letter which is in substance the same that I received is attached as Exhibit A to the Class Action First Amended Complaint for Injunctive and Declaratory Relief re Denial of Civil rights on file herein.

3. After receiving that April 19, 1982 letter from Mr. Russoniello, I discussed Mr. Russoniello's request with Jay Patterson, the Registrar of Voters of the City and County of San Francisco, and we reached an agreement

regarding the manner in which we would respond. We agreed that Mr. Patterson would select at random affidavits or registration of 35 persons whose affidavits indicated that they were foreign-born, without regard to whether these persons sought, or disclosed a preference for, election materials in a language other than English. Mr. Patterson would also select at random affidavits of registration of 35 persons. Those affidavits would be pulled without regard to any selective criteria whatsoever. My intent, which was expressed to Mr. Patterson, was to provide a "control group", so that whatever registration irregularities might be discovered in the foreign-born category could be compared to registration irregularities which might be found in the category of voters selected at random.

4. On May 3, 1982, I wrote Mr. Russoniello and informed him that I had received his April 19, 1982 request and that Mr. Patterson would be forwarding to him a "list of the thirty-five at random foreign born voters and also a list selected at random of thirty-five voters. Hopefully, the latter will put any variances in voter registration among foreign born into proper perspective."

5. On May 6, 1982, I received from Mr. Patterson two sets of copies of 35 affidavits of registration, one of which, I was informed, contained affidavits of registration of 35 foreign born registrants without regard to national origin or language preference, and the second of which contained copies of the "control group" of 35 voters picked at random. On May 12, 1982, I forwarded the copies I had received from Mr. Patterson to Mr. Russoniello.

6. I thereafter received a letter from Mr. Russoniello dates May 26, 1982 in which he asked me to conduct an interview of three persons whose affidavits had been sent to him as described above. Of those three, who were all foreign born, I was informed in that letter that as to the first and second, neither INS nor the FBI had any record

and that as to the third, the person had applied for an Immigrant Visa and Form I-130A and that his residence was at best as a legal permanent resident.

7. I thereafter conferred with Mr. Patterson regarding one of these persons. The records of the Registrar showed that he had registered in San Francisco in 1979 and had not voted in San Francisco since that time. No further inquiry was made of that person. A letter was sent to the remaining two requesting information regarding their citizenship status. Staff learned after telephone calls with these persons that they were naturalized citizens and the date and number of their certificates. The information described in this paragraph was provided to Mr. Russoniello by letter dated June 7, 1982.

8. The information set forth above includes all action I have taken in response to or in connection with Mr. Russoniello's request in his April 19, 1982 letter. I have no plans or intentions to engage in any further follow-up regarding this matter.

9. In my opinion, the actions which I took in response to Mr. Russoniello's request were entirely lawful and reasonable and did not impinge upon any person's rights under the California or United States Constitution or under any other law. The affidavits of registration provided to Mr. Russoniello were public records and therefore entirely appropriate for use in checking out violations of voter registration laws. I further believe Mr. Russoniello's request for such records and for follow-up on them by local agencies in no way violated the lawful rights of plaintiffs in this action or of any other person or persons.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this verification was executed on September 22, 1982 at San Franicsco, California.

/s/ ARLO SMITH

Arlo Smith

0902C

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2102-SW

JOSE J. OLAGUES, ET AL., PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, ET AL., DEFENDANTS.

DECLARATION OF KEITH C. SORENSON

I, KEITH C. SORENSON, declare that:

1. I am the District Attorney for the County of San Mateo, State of California.

2. I am personally knowledgeable of the matters stated hereinafter except as to those matters with respect to which I am informed and believe them to be true, which information and belief are asserted hereafter as to such matters, as appropriate.

3. On or about the 20th day of April, 1982, I received a letter from the United States Attorney for the Northern District of California, Joseph P. Russoniello, requesting that I provide him with a random sampling of 25 names from the voters' lists in San Mateo County, selecting the sample from those voters who had indicated on their affidavits of registration that they were foreign born and had also requested voter material in the Spanish language.

4. Pursuant to the aforesaid request and with the assistance of the San Mateo County Clerk and Registrar of Voters, 25 names were provided to Mr. Russoniello.

5. Thereafter, I received a report from the United States Attorney reflecting the results of federal record checks with reference to the 25 persons aforementioned

indicating that 9 of the 25 were naturalized citizens of the United States of America coupled with a request that the remaining 16 be interviewed in order to ascertain whether or not they were in fact citizens of the United States of America.

6. Pursuant to said request, I directed the Bureau of Investigation of the District Attorney's Office to attempt to comply.

7. Upon completion of said assignment, I provided the results to the United States Attorney's Office as follows: Of the 16 names, 10 were located and interviewed; 6 could not be located. Of those interviewed, 6 provided information convincing me that they were naturalized citizens; 4 stated that they were not citizens of the United States of America but had registered under misapprehensions as to their legal authority to become voters in San Mateo County, California.

8. I advised the San Mateo County Clerk and Registrar of Voters that he should cancel the registrations of those persons found not to be citizens and not allow them to vote at any official elections in San Mateo County.

9. As a result of information obtained from those persons who were non-citizens who registered to vote and declared themselves to be citizens under penalty of perjury, I determined to pursue the investigation further in an effort to ascertain whether any person or person was deliberately attempting to register non-citizens in San Mateo County and urging their participation in elections by fraudulent or misleading representations.

10. In furthering the investigation I decided that all of the remaining names on the voters' lists whose affidavits of registration showed them to be foreign born and requesting voter information in the Spanish language should be checked out in an effort to determine whether evidence existed for possible prosecution, either of the registrants

for perjury or any other person or persons for illegal conduct in urging or aiding ineligible persons to register.

11. The results of the aforesaid follow-up investigation involving 26 names revealed that 16 are naturalized citizens, 5 are not citizens, and 5 were unable to be located.

12. After review and analysis of the findings, I have determined there is insufficient evidence upon which to base a criminal prosecution against any of the persons who are not citizens of the United States of America but nevertheless registered to vote; and I have further determined there is insufficient evidence to prosecute any other person or persons for illegally urging or assisting such persons to register to vote. My investigation is complete; and in the absence of further evidence coming to my attention or information leading to further evidence, I have no intention to initiate any prosecutions arising out of the investigations hereinabove described.

13. In my opinion, based on the information available to Mr. Russoniello, he acted reasonably and responsibly in the performance of his duties as a United States Attorney in initiating the aforementioned investigation; and for District Attorneys to cooperate with him as well as to investigate into the possibility of violations of state law was entirely appropriate and within the course and scope of the obligations and responsibilities of District Attorneys in the State of California.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at Redwood City, California, on September 16, 1982.

/s/ KEITH C. SORENSON

Keith C. Sorenson
District Attorney
San Mateo County

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2102-SW

JOSE J. OLAGUES, ET AL., PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, ET AL., DEFENDANTS.

DECLARATION OF GENE L. TUNNEY, JR.

I, GENE L. TUNNEY, JR., hereby declare as follows:

1. I am, and at all pertinent times was, District Attorney for the County of Sonoma.

2. On or about April 20, 1982, I received a letter from Mr. Joseph P. Russoniello, United States Attorney for the Northern District of California, requesting that I request the Registrar of Voters to submit a random sampling by providing 25 names of voters. This sampling was to be taken from a pool of voters whose affidavits of registration reflected (1) a foreign country as the place of birth, and (2) a preference for election materials in a language other than English.

3. Shortly thereafter, I requested the office of the Registrar of Voters to provide such a sampling directly to the Office of the United States Attorney.

4. I understand that such a sampling was in fact provided.

5. Thereafter, I received a report from Mr. Russionello outlining the status of the determination of citizenship of the sample as per a review of the records of the Immigration and Naturalization Service.

6. I understood that it was left to my discretion as to whether to conduct any further investigation regarding this information.

7. I elected not to conduct any further investigation, because I considered this a matter primarily within the jurisdiction of the Immigration and Naturalization Service. Accordingly, I took no further action in this matter.

8. I believed at the time of these activities, and continue to believe, that there is nothing relating to these activities which even suggested any illegality or impropriety. It is my further understanding that voter registration information is a matter of public record, and required to be provided by the Registrar of Voters upon appropriate request.

Further, I had, and continue to have, no reason to believe that Mr. Russoniello, as United States Attorney for the Northern District of California, would conduct an investigation in an illegal or unconstitutional manner.

9. In my opinion, Mr. Russoniello'a approach to his investigation was reasonable and made effective use of the resources of the various Counties involved. In my opinion there is nothing unreasonable about concentrating investigative resources solely upon those individuals whom preliminary information suggested were voting illegally.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 22nd day of September, 1982 at Santa Rosa, California.

/s/ GENE L. TUNNEY, JR.
Gene L. Tunney, Jr.

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Civil Action No. C-82-2102-SW

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED; ET AL., PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY, AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA; ET AL., DEFENDANTS.

DECLARATION OF ROSS UNDERWOOD

I, ROSS UNDERWOOD, declare that:

1. I am the Registrar of Voters for the County of Monterey, State of California.

2. I am personally knowledgeable of the matters stated hereafter, except as to those matters with respect to which I am informed and believe them to be true, which information and belief is asserted hereafter as to such matters, where appropriate.

3. On April 21, 1982, John M. Phillips, Assistant Monterey County District Attorney, telephoned me. He explained that William Curtis, the Monterey County District Attorney, had received a letter from Joseph P. Russoniello, the United States Attorney for the Northern District of California, and that Mr. Russoniello was investigating what appeared to be voter registration irregularities in most of the counties in the San Francisco Bay Area, including Monterey County. The investigation had to do with the alleged registration to vote of persons who were actually ineligible to vote because they were not citizens. It was believed that most of these persons would

have requested bilingual ballot materials. Mr. Phillips stated that Mr. Russoniello's letter had requested the District Attorney to assist him by obtaining from me a random sampling of twenty-five (25) newly registered Monterey County voters of foreign birth who had requested elections materials in a language other than English. I explained to Mr. Phillips that in Monterey County, any bilingual ballot materials would be in Spanish only. I told him that the Elections Department would comply since the affected records were public records pursuant to Government Code Section 6250, et seq., and since in addition, there was a specific Government Code Section requiring me to comply with such a request. Mr. Phillips asked that the matter be handled and be kept in strict confidence.

4. Mr. Phillips sent me a memorandum dated April 21, 1982, confirming our telephone conversation and the District Attorney's request. A true and correct copy of that memorandum is attached to this declaration, labelled Exhibit A, and is incorporated herein by reference as though set forth in full.

5. Upon receipt of Mr. Phillips' memorandum, I called a part-time Elections Department employee who works on an as needed basis, and asked her to report for work on the following day. I then looked at the computer reports for the various Monterey County precincts to ascertain which of the precincts had bilingual ballot requests, since about thirty percent of the County's precincts have such requests (although the actual number of bilingual ballot requests vary from precinct to precinct). At random, I then selected twenty-five precincts in which there were bilingual ballot requests.

6. When the part-time clerk reported for work the next day, she was instructed to go to the twenty-five precincts I had randomly selected the preceeding day, and to take the first bilingual registration preference from each precinct.

She was instructed to being at the front on the first precinct, at the middle on the next, and to start from the rear of the next precinct, inasmuch as each precinct file is arranged alphabetically. It was my belief that the best random sampling would be obtained in this manner. The part-time clerk was never informed, either before or afterwards, why she was doing this assigned task.

7. When the part-time clerk had completed her task, the twenty-five Affidavits of Voter Registration were reviewed to be certain that they all met the selection criteria, i.e., a person of foreign birth who had requested bilingual elections materials. In reviewing them, it was found that four of the twenty-five were not foreign born, and so they were withdrawn from the sampling. For the remaining twenty-one, one certified copy was made of each Affidavit of Voter Registration, and then the Affidavit was returned to the precinct file from which it had been pulled. No list of names of precincts was made, and no copy of the Affidavit was retained by the Elections Department.

8. The twenty-one certified copies of Affidavits of Voter Registration were transmitted to the District Attorney's office by normal county messenger service, together with a cover memorandum from Betty Bloomer, Assistant Registrar of Voters, which she prepared at my request and sent to John M. Phillips, Assistant Monterey County District Attorney. A true and correct copy of the transmittal memorandum is attached to this declaration, labelled Exhibit B, and is incorporated herein by reference as though set forth in full.

9. On a date sometime after mid-June, 1982, I was telephoned by Lucille Withers, Monterey County District Attorney Investigator. She stated she had a list of names of registered voters whom she had been asked to interview at the request of the United States Attorney in San Francisco. She did not have addresses for these individuals,

and asked that I provide them. When the names were provided to me, a copy of each Affidavit of Voter Registration was made for her, since the Affidavit had the voter's address on it. The original Affidavit was then returned to the precinct file where it belonged. No copy was made for the Elections Department, nor was any list made or retained which had these names and/or addresses on it.

10. The information provided to the Monterey County District Attorney was information which would have been available to any private person who requested it from the Elections Department, since the records involved are public records pursuant to California Government Code Section 6250, et seq. In addition, California Government Code Section 6263, which provides as follows:

> § 6263 District attorney; inspection or copying of nonexempt public records
>
> A state of local agency shall allow an inspection or copying of any public record or class of public records not exempted by this chapter when requested by a district attorney.

requires that I provide the information requested of me as set forth hereinabove. As set forth herein, I supplied the information requested in such a way as to preserve confidentiality, as I was requested to do by the Assistant District Attorney.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 20, 1982.

ROSS UNDERWOOD

/s/ ROSS UNDERWOOD

Monterey County Registrar of Voters

EXHIBIT "A"

OFFICE OF THE DISTRICT ATTORNEY
MONTEREY COUNTY

Memorandum

TO: Mr. Ross Underwood
Election Department

DATE 4/21/82

FROM: John M. Phillips, Assistant D.A.

SUBJECT:

As I mentioned in our telephone conversation, we are looking into the newly registered persons of foreign birth to determine what percentage of them are in fact eligible to vote. We are requesting, therefore, that you obtain in some random fashion the names and date of birth of 25 persons of new registration whose affidavit of registration reflect (1) a foreign country as a place of birth and (2) a preference for election material in a language other than English. We would request that said names and dates of birth be forwarded to us sometime before April 30, 1982 so that we can in turn forward it to the U.S. Attorney's office.

Again, we are requesting that this matter be kept strictly confidential between us.

ak

EXHIBIT "B"

ELECTION DEPARTMENT
MONTEREY COUNTY

Memorandum

TO: John M. Phillips, Asst. D.A. DATE 4/30/82

FROM: Betty L. Bloomer, Asst. Registrar of Voters

SUBJECT: Attached Copies of Affidavits

Per your request dated 4/21/82, we are forwarding to you Certified Copies of the attached Affidavits of Registration. If We can be of any further assistance, contact our office.

blb

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. C-82-2102 SW

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED, HISPANIC COALITION FOR HUMAN RIGHTS; CHINESE FOR AFFIRMATIVE ACTION; AND SAN FRANCISCO LATINO VOTER REGISTRATION EDUCATION PROJECT, PLAINTIFFS,

v.

JOSEPH P. RUSSONIELLO, INDIVIDUALLY, AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA; WILLIAM A. O'MALLEY, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR CONTRA COSTA COUNTY; LON UNDERWOOD, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR CONTRA COSTA COUNTY; ARLO SMITH, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SAN FRANCISCO COUNTY; JAY PATTERSON, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SAN FRANCISCO COUNTY; JOHN MEEHAN, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR ALAMEDA COUNTY; JAMES RIGGS, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR ALAMEDA COUNTY; WILLIAM D. CURTIS, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR MONTEREY COUNTY; ROSS UNDERWOOD, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR MONTEREY COUNTY; JAMES D. BOITANO, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR NAPA COUNTY; BARBARA GREENSLAKE, INDIVIDUALLY AND IN HER CAPACITY AS REGISTRAR OF VOTERS FOR NAPA COUNTY;

KEITH SORENSON, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SAN MATEO COUNTY; MARVIN CHURCH, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SAN MATEO COUNTY; ARTHUR DONNER, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SANTA CRUZ COUNTY; RICHARD (DICK) NEAL, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SANTA CRUZ COUNTY; GENE L. TUNNEY, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SONOMA COUNTY: EEVE LEWIS, INDIVIDUALLY AND IN HER CAPACITY AS REGISTRAR OF VOTERS FOR SONOMA COUNTY; LOUIS BERGNA, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT ATTORNEY FOR SANTA CLARA COUNTY; GEORGE A. MANN, INDIVIDUALLY AND IN HIS CAPACITY AS REGISTRAR OF VOTERS FOR SANTA CLARA COUNTY; DAVID ILCHERT, INDIVIDUALLY AND IN HIS CAPACITY AS DISTRICT DIRECTOR OF THE IMMIGRATION AND NATURALIZATION SERVICE IN THE SAN FRANCISCO BAY AREA, DEFENDANTS.

DECLARATORY OF MARCH FONG EU

I, MARCH FONG EU, declare:

1. I am Secretary of State for the State of California.

2. In the course of business as such Secretary of State, I received and sent the following letters, copies of which are attached hereto and incorporated herein:

DATE	ADDRESSEE	SENDER	EXHIBIT NO.
3/ 3/81	Hon. Louis P. Bergna	March Fong Eu	A
3/11/81	Hon. March Fong Eu	Louis P. Bergna	B
3/18/81	Louis P. Bergna, Esq.	March Eu	C
3/27/81	Honorable March Eu	Louis P. Bergna	D
3/ 8/81	The Hon. March Eu	Louis P. Bergna	E

DATE	ADDRESSEE	SENDER	EXHIBIT NO.
2/23/82	Louis P. Bergna	Ray E. Cunningham	E-1
6/30/81	Louis P. Bergna	Ray E. Cunningham	E-2
3/17/82	Hon. Louis P. Bergna	March Fong Eu	F
5/ 4/82	Joseph Russoniello, Esq.	March Fong Eu	G

3. I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 7, 1982.

/s/ MARCH FONG EU
March Fong Eu

EXHIBIT A

SECRETARY OF STATE
SACRAMENTO 95814

March 3, 1981

Honorable Louis P. Bergna
Santa Clara District Attorney
70 West Hedding Street, West Wing
San Jose, California 95110

Dear Mr. Bergna:

I have read recently the newspaper articles in the San Jose Mercury News regarding alleged voter registration irregularities in Santa Clara County. It is my understanding that your office is investigating these allegations.

I should appreciate your advising me of the status of your investigation as well as your perspective as to the scope of the apparent problem. Based on my experience statewide, there appears to be very little actual voter fraud, although unlawful registrations do arise as a result of confusion or mistake. However, those who do violate the law should be prosecuted promptly and effectively, and I want you to know that my office is prepared to do whatever is appropriate to assist in this regard.

Please let me know if I can be of any assistance.

Sincerely,

/s/ MARCH EU

cc: Mr. George Mann

EXHIBIT B

March 11, 1981

Honorable March Fong Eu
Secretary of State
Sacramento, CA 95814

Dear Secretary of State Eu:

Referring to your letter of March 3, 1981, I'm very sorry but I can't give you any information on our voter registration investigation. We don't comment on our active investigations.

Commenting generally on your inquiry, my attorney assigned to this matter tells me that the entire voter registration and voting procedures are ripe for fraud and should be looked into.

Very truly yours,

LOUIS P. BERGNA
District Attorney

EXHIBIT C

SECRETARY OF STATE
SACRAMENTO 95814

March 18, 1981

Louis P. Bergna, Esq.
District Attorney
County of Santa Clara
70 West Hedding Street
San Jose, California 95110

Dear Mr. Bergna:

Thank you for your letter of March 11, 1981.

I should appreciate your elaborating in detail on your statement that "the entire voter registration and voting procedures are ripe for fraud and should be looked into." Your observations as a prosecutor would be most helpful in terms of determining the necessity for remedial legislation in this area.

Sincerely,

/s/ MARCH EU

EXHIBIT D

March 27, 1981

Honorable March Eu
Secretary of State
Sacramento, CA 95814

Dear Secretary of State:

I would suggest that your question to me in your letter of March 18th be addressed to the County Clerks Association. I'm told that they are the experts in voter registration and voting procedures and have strong feelings as to what safeguards should be provided for in this area.

Frankly, I know very little about this subject but it seems to me that our voting process should be set up so that:

- The persons who register know that that is what they are doing when they sign the card;
- the identity of the person signing the card is reasonably established;
- the person voting is reasonably identified as the person they represent themselves to be.

I'm told that, presently, I could sign registration cards for A, B, C and D, and give my address on each registration card; that a card would be mailed to A, B, C and D by the Registrar of Voters to my address, and if none of the registration cards were returned by the Post Office to the Registrar, no problems would arise. On Election Day, I could vote as A, B, C and D without any problem if the election officers were exceedingly uninterested and unattentive. If they were interested and attentive, I could have others vote for B, C, and D. I, voting as A, and the others

voting as B, C and D, would have nothing to fear as no identification is required and nothing is available at the voting place to check handwriting.

Please accept my interest in this matter as coming from one of those "nuts" who attaches a little sanctity to our voting privilege. Also, please be assured, the hypothetical situations I have given in no way reflect what our investigation has or hasn't revealed.

Sincerely,

LOUIS P. BERGNA
District Attorney

EXHIBIT E

Office of the District Attorney
County Government Center, West Wing
70 West Hedding Street
San Jose, California 95110
County of Santa Clara 275-9651 Area Code 408
California Louis P. Bergna, *District Attorney*

March 8, 1982

The Hon. March Eu
Secretary of State
Sacramento, California 95814

Dear Secretary of State Eu:

As you know, this office has been investigating for over a year allegations of voter fraud in a San Jose City election of 1980.

We enclose a copy of our findings for your consideration and possible reform in the election laws.

It appears to us that these changes are necessary if we are to keep this process as inviolate as possible.

Sincerely,

/s/ LOUIS P. BERGNA
Louis P. Bergna
District Attorney

LPB/jp

Enc.

cc: Dan O'Keefe, States Senate
Alfred Alquist, State Senate
Dominic Cortese, State Assembly
Ernest Konnyu, State Assembly
Alister McAlister, State Assembly
Byron Sher, State Assembly
John Vasconcellos, State Assembly

EXHIBIT "E"
Attachment 1

Memorandum

TO: LOUIS P. BERGNA

DATE February 23, 1982

FROM: RAY E. CUNNINGHAM

SUBJECT: Final Report: VOTER FRAUD INVESTIGATION

On February 8, 1981, the San Jose Mercury News first report that voter registration cards were forged and votes were fraudulently cast in San Jose's 1980 elections.

On February 9, 1981, Voter Registrar George Mann asked our office to investigate. The information on which the first phase of the investigation was based was that there was a conspiracy to illegally register and vote illegal aliens in San Jose City Council District Five.

Between February 17, 1981 and May 29, 1981, D.A. Investigator Robert Mann interviewed 19 individuals and wrote 25 reports, totalling 45 pages.

Attached hereto is a copy of the memorandum I sent you on June 30, 1981, upon the completion of phase one of the investigation, wherein I advised you that we had failed to uncover any evidence of a conspiracy, but were continuing the investigation to deal with the question, which arose during phase one, of large numbers of foreign born voters in District Five who were not citizens but had nonetheless registered, and in some cases, voted.

Certain suggestions were made to you at that time regarding what I felt was the need for legislative reform in this

area. (You and I had previously discussed this issue in March, 1981, and some of the suggestions I made at that time were incorporated in a letter which you sent to Secretary of State, March Fong Eu, dated March 27, 1981.)

To launch the second phase of the investigation, on May 27, 1981, Bob Mann sent a letter to the U.S. Immigration and Naturalization Service, along with a computer print-out list of foreign born registered voters in the City of San Jose's 5th District, requesting a check of their records to determine if they were naturalized citizens.

Six weeks later, the I.N.S. advised us that there would be a charge to process the 714 names. We were advised that the San Francisco Office of the I.N.S. would run a random sampling of one hundred of the 714 names at no charge and a list of one hundred names was sent to them on August 18, 1981.

While awaiting the initial results from I.N.S. Bob Mann completed two loose ends from phase one of the investigation, referred to in my June 30, 1981, memo to you:

1. Addresses where an unusually large number of voters were registered to vote were checked for possible fraud and *no* criminal wrongdoing was found.
2. One isolated case of false affidavit of registration where we identified the perpetrator was investigated. It involved one who registered to vote and voted here in San Jose while a resident of Fremont. After initially claiming that the signatures on the affidavit of registration and at the polling place were not his, despite handwriting analysis to the contrary, I cited into my office. He admitted that he had registered to vote and voted here using his business address since it

made it more convenient for him to do so. I spoke with the Deputy District Attorneys handling Election Code violations in Alameda, San Mateo and San Francisco Counties. (San Francisco had a large number of similar cases involving city employees a few years ago). All counties advised me that their standard procedure in such cases was to advise the individual of the illegality of the conduct and to allow them to cancel their illegal registration without prosecution (provided that the individual had *not also* registered and/or voted in their county of residence). After discussion with Assistant District Attorney Leo Himmelsbach, this was the method of resolution of this matter.

On September 11, 1981, the San Francisco office of the I.N.S. returned our list of one hundred names, advising that there was no record as to eighty, and that of the remaining twenty, eleven were aliens. They cautioned that their files on many people were incomplete or in other district offices, and, further, that as to some of the eight-one [sic] individuals which came us "no record", it may have been the result of insufficient information submitted to them.

In light of these figures, on September 22, 1981, our office sent a check to the I.N.S. in Washington, D.C. to cover the cost of checking, the 714 names through I.N.S. files. While this was being processed, Bob Mann was assigned to locate and interview the eleven persons that the San Francisco I.N.S. office reported were aliens as well as the eighty individuals for which the San Francisco office had found no record.

On December 8, 1981, Bob Mann concluded the laborious process of checking through the ninety-one people. His final tally showed that

69 were U.S. citizens
20 were not U.S. citizens
11 could not be located

These figures suggest that I.N.S. records with respect to the status of aliens in this country are out of date, incomplete and inadequate.

On November 17, 1981, the I.N.S. in Washington, D.C. completed its check of the 714 names submitted to it in September. Bob Mann had already concluded his investigation as to one-hundred of those 714 individuals. As to the remaining 614, the I.N.S. reported that 263 were U.S. citizens and that 351 were either legal permanent residents, illegal aliens, or unable to locate records.

Based upon our previously acquired knowledge of the state of I.N.S. records, we determined that we would contact a random sample of 10 percent of the 351 aliens to determine what percentage were actually U.S. citizens. On December 31, 1981, Bob Mann completed this portion of the investigation. Of thirty persons the I.N.S. reported were aliens, 29 were in fact, U.S. citizens (naturalized).

Insofar as criminal conduct on the part of the aliens who are illegally registered, Elections Code Section 29200 provides that:

> "Every person who willfully causes, procures, or allows himself or any other person to be registered as a voter, knowing that he or that other person is not entitled to registration, is punishable by imprisonment in the state prison for sixteen months or two or three years, or in county jail for not more than one year."

Each of the illegally registered aliens interviewed freely discussed the circumstances of their registration. They were all registered (by their account) either because they believed or were told by the person registering them that they could register because either:

1. They were married to U.S. citizens,
2. They had been residents of the United States for a long period of time.

It is my conclusion, and Mr. Himmelsbach and Chief Assistant District Attorney, William P. Hoffman, concurred in discussions with them, that these cases are not prosecutable because of the requirement of the code section that we prove beyond a reasonable doubt that the person registering must know that he is not entitled to registration. It is not possible to do so in any of the cases investigated, and Bob Mann, Mr. Himmelsbach, and myself, all agree that further investigation would not reveal any prosecutable cases, in light of the code requirement.

Bolstering the defense of the aliens who illegally registered is the fact that we have been aware throughout this investigation that many persons working on registration drives are themselves apparently ignorant of the requirement of citizenship, since numerous ones of them apparently advised the aliens, when told by the alien that they were not citizens, that it was okay to register if they were married to U.S. citizens or had been long time residents.

Prosecution of these individuals conducting the registration would likewise require proof beyond a reasonable doubt that they registered a person knowing that they were not entitled to registration. In addition to this obtacle, we have uncovered the following problems:

1. In 1980 our Registrar of Voters issued 395,377 affidavits of registration. No precise method was

used to keep track of what organization or individual picked up affidavits at the Registrar's Office. Several hundred organizations were engaged in voter registration drives during the 1980 general election. The affidavits were not issued in numbered sequence by the Registrar of Voters, so it is almost impossible to determine what organization picked up a particular block of affidavits. Where it is possible to identify which group registered a particular alien, it is rare that the individual who registered the alien will ever sign the form under the "signature of person assisting (if any)" a space on the form. As a result, we are unable to ever identify, much less interview, the individuals who registered the aliens to find out if any of them registered aliens knowing that they were not entitled to registration.

2. From those few persons who we were able to identify and interview we learned that very little instruction was provided to the volunteers who worked on the registration drives. Additionally, from one particular case, the person conducting the door to door spoke no Spanish and the woman alien being registered spoke little English. The alien registered after (according to her) she told the person she was not a citizen and was assured she could register. The person conducting the door to door registration was not aware she had registered an alien, presumably because she did not understand the woman when she told her, in Spanish, that she was not a citizen.

In summary it is clear that a fairly significant number of aliens not entitled to registration, are registered to vote in Santa Clara County. (Only four of the one-hundred aliens in the first group, and none of the thirty in the second

actually voted.) No prosecutable cases have been uncovered, and, in light of the requirement of the Elections Code referred to above, it is unlikely that further identification and interviewing of names of foreign born voters would uncover any such cases.

It is unclear where responsibility lies to identify the remainder of the illegally registered aliens. The District Attorney's office has no authority to do so where it is not engaged in a criminal investigation, which we have now concluded.

This question is one which the Grand Jury Committee looking into this area should investigate further.

Finally the second phase of this investigation serves only to reinforce the need for legislative reform which I called to your attention at the conclusion of phase one of the investigation. (See June 30, 1981 memorandum attached hereto).

1. A person filling out an affidavit of registration should be required to produce identification and proof of citizenship. (Hence, registration by mail should be abolished).
2. Persons who register the voter (employees of the Registrar of Voter's office or individuals working on voter registration drives) should be required to sign the Affidavit of Registration and indicate their home address.
3. A copy of the signature of each voter (from the Affidavit of Registration) should be provided at the polling place and poll workers should compare the signature of the person at the polls with that of the signature on the Affidavit of Registration. In any event, the poll worker should be required to ask for identification for each voter.
4. The Registrar of Voters needs to be given statutory authority to require proof of citizenship

of already registered voters by sending out requests for same to foreign born voters, and needs authority to purge from the voting rolls the names of persons not responding.

5. The Registrar of Voters should be required to keep, in detail, records of the names and addresses of persons or organizations conducting registration drives. Individuals taking out blocks of Affidavits of Registration should be advised that no affidavit will be accepted unless the name and address of the person who registered the voters appears thereon.

I recommend that these suggestions, and a copy of this memorandum be forwarded to Secretary of State, March Fong Eu, all State Senators and State Assemblymen representing any portion of Santa Clara County, and Registrar of Voters, George Mann.

Should you desire me to draft a cover letter to these individuals to be sent out over your signature, or that of Mr. Himmelsbach, please advise me.

Ray E. Cunningham

REC/em
Attach.

EXHIBIT "E"
Attachment 2

TO: LOUIS P. BERGNA
FROM: RAY E. CUNNINGHAM June 30, 1981

During the past four months Robert Mann has been investigating the alleged instances of forged voter registration cards and fraudulently cast votes uncovered by the San Jose Mercury News. This investigation is basically complete. We have been unable to uncover any evidence that any one person or group of persons conspired to commit violations of the Election laws in this area.

It is apparent that some residents' signatures were forged on voter registration cards. It is also apparent that some voter's signatures were forged at the voting booth. There is no way now to determine who committed these forgeries.

What is clear is the need for legislative reform in this area. In California a person may register to vote in one of three ways: he may pick up a voter registration card at the Post Office and mail it to the Registrar; he may report directly to his local Registrar's office and fill out the voter registration card; or he may fill out a voter's registration card at the numerous neighborhood booths that are utilized during registration drives. The prospective registrant is not required to produce any identification under any of these circumstances.

The Registrar's Office then checks to make sure that the address listed by the registrant is a valid address. If it is, a post card is mailed to the registrant verifying his registration. If the post card is not returned to the Registrar, a sample ballot will be sent to the registered voter, he will be instructed as to where to vote, and his name will appear on the list which is sent to that polling place. The abuses that can occur in this type of a registration system are readily apparent. Consideration should be given to ending regis-

tration by mail, and persons registering at the Registrar's Office or at the voter registration table should be required to produce adequate identification.

The situation is no better at the polling place. The voter comes in, signs his name at the polling place, and is allowed to vote. No identification is asked for and no comparison signature is available for use by poll workers (that is, the poll worker does not have in front of him the signature of the voter from the voter's registration card). Once again, the possibilities for abuse are self-evident, as are the necessary corrective measures.

While the larger part of our investigation is complete, Bob Mann is still checking into possible criminal violations in three areas:

1. One or two isolated cases of false affidavits of registration, where we may be able to identify the perpetrators.
2. A computer list of registered voters in San Jose's Fifth Council District who are foreign born has been sent to the Immigration and Naturalization Service to determine if all registered voters thereon have been naturalized.
3. Addresses where an unusually large number of voters registered to vote are being spot-checked for possible fraud.

As for the major portion of the investigation, which is complete, Elias Castillo of the San Jose Mercury News, who uncovered the fraud, frequently checks for progress reports. If an official statement regarding the outcome of the investigation is called for, please advise me. If anything develops as a result of Mr. Mann's continued inquiries into the three areas I have outlined, I will advise you.

REC/em
CC: William P. Hoffman
Leo F. Himmelsbach
Robert Mann

EXHIBIT "F"

SECRETARY OF STATE
SACRAMENTO 95814

March 17, 1982

Honorable Louis P. Bergna
District Attorney, County of Santa Clara
County Government Center, West Wing
70 West Hedding Street
San Jose, California 95110

Dear Mr. Bergna:

Thank you for sending me a copy of the report on the investigation of allegations of voter fraud in Santa Clara County conducted by your office over the past year. Although I will defer a more comprehensive response to your specific recommendations for changing the mail registration system until I have had the opportunity to confer with other elections officials and legislative leaders, I should like to take this opportunity to respond preliminary to the report.

First, I am pleased that your office did not find any evidence of a conspiracy to register voters fraudulently. My office has investigated allegations of a conspiracy in this regard in the past and has likewise never established any basis for them.

Second, with respect to the one situation wherein a Fremont resident was discovered to have registered and voted in San Jose knowing, apparently, that such conduct was unlawful, I am disappointed that you did not prosecute. Although the disposition of this case may be similar to situations in some other counties, I believe that one of the best deterrents to voter registration fraud and illegal voting

is prompt and certain prosecution to the full extent of the law. If it is not too late to do so, I strongly recommend that this individual be prosecuted without further delay.

Third, I share your concern over what appears to be a significant number of noncitizens who have registered to vote. One noncitizen on the voter registration rolls is one too many. From the report it appears that the problem stems not from any organized effort to knowingly register ineligible persons but rather from ignorance, negligence, or mistake. Thus, in response to an earlier phase of your investigation, I have ordered voter registration forms to be modified by placing a bold bilingual notation in red at the top of the form which says: "For U.S. Citizens Only." I am enclosing a copy of the new form. It is my hope that this notification will alert prospective illegal registrants and persons distributing cards of the requirement that only citizens can register. I am also going to direct county clerks and registrars to give a written notice to all persons requesting significant numbers of cards alerting them to the "citizens only" requirement. Do you think these steps will help solve the problem you have uncovered?

Fourth, I have directed my chief deputy, Anthony Miller, to arrange a meeting with your investigative staff to discuss your findings and recommendations in more detail. I understand that Mr. Miller has already requested a meeting on April 15, 1982.

Fifth, I am very interested in your specific recommendations. Frankly, I have serious doubts whether some of them would accomplish the desired result but they deserve careful consideration and they shall receive it.

I should point out at this point, however, with respect to the suggestion that affidavits of registration should be available at the polling place for signature comparison,

that state law already permits counties, by action of the Board of Supervisors, to provide for such. (Election Code section 14005(p)).

Finally, I want to express my personal appreciation for your efforts in investigating this matter. It is fundamental to our system that the voting process be free beyond any doubt from even the hint of fraud and as Secretary of State I pledge my full support in taking any steps appropriate to ensure that it is.

Sincerely,

/s/ MARCH FONG EU

cc: Mr. George A. Mann, Registrar/Recorder
Honorable Dan O'Keefe, State Senate
Honorable Alfred Alquist, State Senate
Honorable Dominic Cortese, State Assembly
Honorable Ernest Konnyu, State Assembly
Honorable Alister McAlister, State Assembly
Honorable Byron Sher, State Assembly
Honorable John Vasconcellos, State Assembly

EXHIBIT "G"

SECRETARY OF STATE
SACRAMENTO 95814

May 4, 1982

Joseph Russoniello, Esquire
United States Attorney, Northern
District of California
450 Golden Gate Avenue
San Francisco, California 94102

Dear Mr. Russoniello:

As California's Chief Elections Officer, I am deeply concerned that your investigation of a randomly-selected sample of foreign born voter registrants who have indicated a preference for receiving translated elections materials may have a chilling effect on the exercise of our most precious right, the right to vote. Furthermore, to single out registrants of Hispanic and Chinese heritage, as your directive to local elections officers does as a practical matter, raises serious questions of law and policy. For these reasons, I strongly urge your reconsideration of your efforts in this regard.

Your investigation has the obvious and reasonably certain effect of discouraging naturalized citizens from registering to vote for fear of triggering a federal investigation which could prove to be an embarrassment and invasion of privacy. Such a concern is not unfounded, of course, given the notorious unreliability of INS data. It is highly probable that you will end up investigating naturalized citizens. No citizen should have to fear the possibility of a local or federal prosecutor calling his or her employer, landlord or friends for information just because the citizen has exercised a fundamental constitutional right.

I am aware, of course, of recent findings in Santa Clara County that a significant number of non-citizens have registered to vote there although very few have actually voted. That investigation also indicated that such registrations were the result of misinformation and ignorance rather than a conspiracy to defraud the electoral system in California.

In response to that investigation, I have ordered that all voter registration cards be prominently captioned in red with the warning that the cards are for the use of United States citizens only. The caption will be translated on forms used in counties covered by the Voting Rights Act. I am also taking steps to educate voter registration card distributors and the public generally that only United States citizens can register and vote. Furthermore, I am making it a point to advise the public of the severe penalties which could result from fraudulent registration or voting.

I think the educational approach I am taking, coupled with swift and certain prosecution of violators, is a more appropriate response to the legitimate concern over non-citizens registering to vote than your discriminatory investigation that discourages lawful registrations. I urge you to join me in this approach and to make it clear to everyone that all citizens, native or foreign born, have the right to register and to vote and will not be harrassed because they have chosen to excercise it.

Sincerely,

/s/ MARCH FONG EU

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

_ Civil Action No.
C-82-2102-SW

JOSE J. OLAGUES, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED; ET AL., PLANTIFFS

v.

JOSEPH RUSSONIELLO, INDIVIDUALLY, AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA; ET AL., DEFENDANTS.

DECLARATION OF LILIA ISABEL MEDINA

I, LILIA ISABEL MEDINA, do state

1. My name is Lilia Isabel Medina. I live at 1640 Walnut St. Apt. B, Berkeley, California, 94709. My phone number is 548-3207.

2. I arrived in the United States on April 22, 1959, from Havana, Cuba. I was accompanied by my mother and brother. Our arrival point was Key West, Florida, on a regularly scheduled carrier. We arrived as resident aliens not as travel tourists.

3. I continued to reside in Florida until 1965, when I moved with my family to New Orleans. On January 7, 1970, when I was seventeen, I was naturalized in the Eastern District federal court of Louisiana, at the same time as my mother and father. A copy of my naturalization papers is attached as a copy.

4. I then moved to San Francisco in March of 1975, and voted, as a registered voter, in all regularly scheduled city and county elections until 1981. In June of 1981 I moved to Berkeley. I registered to vote in Berkeley at the Shattuck Avenue Co-op. There was a table outside. I requested

election materials in Spanish, as I have done in the past. I did not know who was working the table.

5. My strong feelings are that given the very large number of non-English speaking citizens, there is a need for election material in Spanish and Chinese, for this makes our legal right to vote possible for those who can't vote with English ballots.

6. Two weeks after the primary in June 1982, I received a notice in the mail to pick up certified mail at the Berkeley main post office. As I opened the certified letter, I was astounded to read that the U.S. Attorney had informed the Alameda county district attorney that no records could be found to reflect my immigration of citizenship status. I then recollected the investigation by the U.S. attorney of those who had requested bilingual ballot materials.

7. I was indignant because I had been voting since 1975 in San Francisco, and had never had any problems. I immediately called the person mentioned in the letter, Mrs. Davis, who works in the Alameda county District Attorney's office. In Spanish I asked her what kind of identification would be required to prove citizenship, because the questionnaire attached to the letter asked that question.

8. Mrs. Davis in Spanish said it was whatever number could be found on my citizenship paper. I then asked her who initiated the investigation, and she said she thought it was the FBI. Then she qualified her answer by saying that the D.A.'s office had an obligation to follow up on the investigation, leading me to believe that I had to respond, and that I would be in the wrong, or subject to some penalty if I didn't cooperate.

9. She did say that I had the right to vote if I was a citizen and it was in keeping for me to ask questions regarding the investigation. That was the end of the phone call.

10. I was aware that this investigation is only being conducted on persons who are of foreign birth and who had requested bilingual ballots. I believe this investigation is unfair since they had no reason to ever believe that I was illegally registered to vote.

11. In October of this year I was contacted by F.B.I. agent Wyneken who requested that I contact his office. Since I believed that he wanted me to answer questions regarding my right to vote and who registered me to vote, I then contacted the Mexican-American Legal Defense and Educational Fund for assistance, and I have supplied the attached affidavit so that I will not be investigated any further.

I declare under any penalty of perjury that he [sic] foregoing is true and correct, and if I am called as a witness I will competently testify thereto.

Executed in the City of Berkeley, County of Alameda, State of California.

11-12-82	/s/ LILIA ISABEL MEDINA
Date	Lilia Isabel Medina

UNITED STATES OF AMERICA

No. 9267487

PETITION FOR NATURALIZATION

NATURALIZATION COURT

Petition No. 20561

Alien Registration No. A11 861 913

·ORIGINAL·

Personal description of holder as of date of naturalization: Date of birth August 23, 1952; sex Female; complexion Medium; color of eyes Brown; color of hair Dk. Brown; height 5 feet 3 inches; weight 119 pounds; visible distinctive marks None; Marital status Single; Country of former nationality Cuba

I certify that the description above given is true, and that the photograph affixed hereto is a likeness of me.

Seal

Lilia Isabel Medina

(Complete and true signature of holder)

U.S. DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA } ss:

Be it known that at a term of the U.S. DISTRICT Court of EASTERN DISTRICT OF LOUISIANA NEW ORLEANS DIVISION held pursuant to law at New Orleans, Louisiana on January 7, 1970 the Court having found that LILIA ISABEL MEDINA then residing at 11 Billyday Ave. Kenner, La. 70062 intends to reside permanently in the United States (when so required by the Naturalization Laws of the United States), had in all other respects complied with the applicable provisions of such naturalization laws, and was entitled to be admitted to citizenship, thereupon ordered that such person be and (s)he was admitted as a citizen of the United States of America.

In testimony whereof the seal of the court is hereunto affixed this 7th day of January in the year of our Lord nineteen hundred and seventy.

Clerk of the U.S. DISTRICT Court.

By _____ Deputy Clerk.

IT IS A VIOLATION OF THE U. S. CODE (AND PUNISHABLE AS SUCH) TO COPY, PRINT, PHOTOGRAPH, OR OTHERWISE ILLEGALLY USE THIS CERTIFICATE.

DEPARTMENT OF JUSTICE

Change of name by order of the Court
From: LILIA MEDINA
To: LILIA ISABEL MEDINA

BENJAMIN W. REISCH, CLERK

January 7, 1970
New Orleans, La.

BEST AVAILABLE COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

Civil Action No.
C-82-2102-SW

JOSE J. OLAGUES ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED; ET AL., PLANTIFFS

v.

JOSEPH RUSSONIELLO, INDIVIDUALLY, AND IN HIS CAPACITY AS UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF CALIFORNIA; ET AL., DEFENDANTS.

DECLARATION OF MARIA GLORIA RODRIGUEZ

I, Maria Gloria Rodriguez, declare:

1. My name is Maria Gloria Rodriquez. I am a resident of Contra Costa County since 1980. I am living at 3113 Valley Vista Road in the City of Walnut Creek. Previous to that I lived in South San Francisco in San Mateo County from 1959 to 1980.

2. I am presently employed as a escrow officer at Chicago Title Insurance and Trust Company at 221 Pine Street, 2nd Floor San Francisco, California.

3. I was born in Guatemala and emigrated to the United States as a resident alien in 1955. On November 21, 1967 I became a naturalized United States citizen.

4. Soon after 1967 I registered to vote and have voted in local, state and federal elections.

5. I take my right to vote seriously and when I lived in San Mateo County I worked with the League of Women Voters to assist and encourage individuals to vote.

6. Some of the work I did with the League of Women Voters was to translate election materials from English to

Spanish and to appear on television to explain, in Spanish, about the issues that would be coming up at election time.

7. I began to request bilingual election materials as soon as they were made available to the public. Although I speak, read, and write English fluently, I requested election materials in Spanish to insure that they had been translated properly and to explain election issues to my mother so she can vote with better knowledge. My mother is also a United States citizen.

8. In addition to writing with the League of Women Voters, I also worked as a deputy registrar of voters in San Mateo County.

9. I had been aware that the United States Attorney was conducting an investigation of people who had requested bilingual voter materials because a friend of mine in San Mateo, who also was a deputy registrar of voters, had called me to tell me that people's names were being selected at randōm for investigation. My friend told me the only reason they were being investigated was because they had requested bilingual election materials.

10. During the past week, a person active in Hispanic community affairs in Contra Costa county called me at my home at 7 p.m. to inform me that he had found out that I had been selected for investigation by government authorities.

11. I do not get scared very easily but when I received this call and was told that a secret investigation was going on about my qualifications to vote, I was very upset and bothered.

12. The best way I can describe my feelings is to say that it feels like the government is doing an investigation behind my back, as if I were an accused drug pusher, without knowing what the charges are against me. It seems to me that they are doing a secret investigation to find out if I committed a crime and then having someone else call me to say they found out I was on a "hit list".

13. I am also very upset that this investigation is only being done on a selected group of people simply because they chose to use election materials which, by law, they are allowed to use. I feel this is discrimination.

14. I know, from being a deputy registrar of voters, that people know that you need to be a United States Citizen to vote and I have never registered or met anyone who might have improperly registered.

15. I also know that many people who request election materials in Spanish are sometimes reluctant to request bilingual election materials because they feel that when they vote that people may have doubts as to their voter qualifications or doubt that they speak English.

16. Finally, I myself refuse to be intimidated by these disciminatory tactics, but in my experience as a deputy registrar, I believe that many people will be discouraged from voting or using election materials because they may be the target of such secret investigations.

I declare under penalty of perjury that the foregoing is true and correct and was executed in San Francisco, California.

5-20-82	/s/ MARIA GLORIA RODRIGUEZ
Date	Maria Gloria Rodriquez

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

NO. C-82-2102-SW

JOSE J. OLAGUES, ET AL., PLANTIFFS,

v.

JOSEPH P. RUSSONIELLO, ET AL., DEFENDANTS.

SUPPLEMENTAL DECLARATION OF JOSPEH P. RUSSONIELLO

I, JOSEPH P. RUSSONIELLO, declare under penalty of perjury that:

1. I am the United States Attorney for the Northern District of California;

2. On June 3, 1982, I recieved the attached letter from the Office of March Fong Eu, signed by Anthony L. Miller, Chief Deputy Secretary of State for the State of California. Enclosed with that letter was the attached press release of March Fong Eu, dated May 28, 1982.

DATED: December 6, 1982.

/s/ JOSEPH P. RUSSONIELLO

Joseph P. Russoniello
United States Attorney

OFFICE OF THE
SECRETARY OF STATE
March Fong Eu
Executive Office
1230 J. Street
Sacramento, California 95814

June 1, 1982

Joseph Russoniello, Esquire
United States Attorney, Northern District
450 Golden Gate Avenue
San Francisco, California 94102

Dear Mr. Russoniello:

I should like to take this opportunity to thank you for your assistance in providing me with the relevant information concerning your ongoing investigation of unlawful voter registrations. As I indicated to you, Secretary of State Eu is very interested in your findings and in seeking solutions to preclude such registrations in the future. I am enclosing a copy of a press release which she issued in response to the investigation by your office.

We are particularly interested in how many of the ineligible registrants have actually voted in a prior election. The dates of registration would also be of interest. The circumstances of the registrations, as determined by follow-up interviews, would be particularly valuable.

Incidentally, your understanding as to the ambiguity of the Spanish translation of the requirements of U.S. citizenship in the instructions printed on the card appears to be correct, although that conclusion is not a unanimous one. In any case, the Secretary of State has ordered that subsequent printings of the cards be changed to make the mandatory requirement of citizenship clearer.

We are also exploring the possibility of describing in some fashion what is meant by U.S. citizenship in the instructions and perhaps changing the form to specifically require the registrant to answer "yes" or "no" as to citizenship rather than including the statement as part of the "perjury" declaration.

Thank you again for your cooperation in this regard.

Sincerely,

/s/ ANTHONY L. MILLER

Anthony L. Miller
Chief Deputy Secretary of State

ALM:bp
Enclosure

NEWS RELEASE

from: Secretary of State March Fong Eu
1230 J Street, Sacramento, CA 95814
(916) 445-6371

For Immediate Release — Contact: Caren Daniels

May 28, 1982

SECRETARY OF STATE EU SPEAKS OUT ON ILLEGAL VOTER REGISTRATION

SACRAMENTO—Secretary of State March Fong Eu today (May 28) called for the vigorous prosecution of violators of California's voter registration laws in the wake of an investigation indicating that a number of non-U.S. citizens have registered to vote in California. She also renewed her call to the Legislature to outlaw payments to voter registration card distributors in some cases and announced a number of other steps to prevent non-U.S. citizens from registering to vote.

"I am again calling on the Legislature to enact laws outlawing payments to card distributors based on the number of registrations turned in," Ms. Eu said. "I am afraid that greed may have induced a number of overzealous registration card distributors to ignore stringent voter registration requirements in an effort to make an extra buck by collecting as many completed registration affidavits as possible."

Ms. Eu also said she has expressly ordered all registrars of voters to provide specific written instructions to registration card distributors to advise registrants that only U.S. citizens can register to vote.

The secretary of state is also exploring the possibility of providing more information on the voter registration card itself further explaining the requirements of U.S.

citizenship to be eligible to register and vote. Earlier this year, Ms. Eu ordered that all voter registration cards used in California be captioned in the appropriate languages with a warning printed in red bold letters stating that cards can be used only by U.S. citizens.

Ms. Eu said, "One non-U.S. citizen on California voter rolls is one too many. I am renewing my call to district attorneys and other law enforcement officials to vigorously prosecute and send to jail anyone who violates our registration and voting laws. This is serious business, and violators must be dealt with accordingly."

The investigations referred to by Ms. Eu include one conducted by the Santa Clara County District Attorney, and a subsequent study of foreign-born registered voters requesting bilingual election materials conducted by the U.S. Attorney in San Francisco, Joseph Russoniello. The Santa Clara investigation found twenty apparent illegal aliens registered to vote, and the U.S. Attorney's investigation indicated that out of 100 identifiable subjects, 55 were naturalized citizens (and eligible to vote), 6 were illegal aliens (ineligible), 19 had permanent resident immigration status, and 20 were presumably non-U.S. citizens. The U.S. Attorney and/or districts attorneys for the eight counties involved in the probe (Alameda, Contra Costa, San Mateo, Santa Clara, Monterey, Napa, San Francisco, and Sonoma) will now interview the suspected illegal registrants in an effort to determine why they registered to vote. Investigators have indicated the absence of any evidence of a conspiracy to induce non-citizens to register and vote or widespread deliberate efforts to violate the registration laws by registrants.

Ms. Eu has offered the full staff resources of her office to do whatever ultimately is required to see that widespread illegal voter registration does not occur, while still not discouraging those persons legally entitled to register from registering and voting.

ELECTIONS

Forgery at the polls: Loose voting laws draw fire

REGISTRATION

Elias Castillo
Mercury News Staff Writer

FEB 8 1981

Voter-registration cards were forged and ... were fraudulently cast in San Jose's 1980 ..., a spot-check by the Mercury News dis-

11/12

County Registrar George Mann, who is responsible for keeping track of Santa Clara County's more than 613,000 voters, said state voting laws are loose enough to allow widespread fraud. However, his office has not investigated possible fraud during registration and voting in June and November elections.

The Mercury News spot-check of two of the city's 10 city council districts disclosed evidence of:

- Forgery of one voter's signature at the voting booth.
- Forgery of residents' signatures on voter registration cards.
- Registration of aliens who were ineligible to vote. Two of those ineligible voters also cast ballots. Under federal law, only United States citizens are allowed to vote or register to vote.

Six cases in which persons registered to vote were not found at the addresses listed on their registration cards. Voters are required by law to advise the county registrar of voters of changes in their home addresses.

Robert Webb, deputy district attorney, said his office was prepared to investigate. He, too, was critical of current laws.

"Anyone can register anyone. I can see how that could lead to mistakes, if not fraud," he said.

Voting violations under state law can be considered felonies, punishable by fines and imprisonment.

The examples of forgery were uncovered in precinct 1733 of District 5 (Alum Rock) and precinct 1536 of District 3 in the city's west side.

Signatures to cast ballots

Inez Naranjo

Mary A. Canzoneri

Signatures on voter-registration cards

Inez S. Naranjo

Mary Canzoneri

Lowell Bradford, former head of the Santa Clara County crime lab, was hired by the Mercury News to examine signatures. He verified the forgeries.

One of the forged signatures in District 5 was that of Inez S. Naranjo, 75, whose voter-registration card lists her address as 2525 Foxdale Drive.

The signature on the registration card is different from the signature appearing on the voter roster. The voter-registration card verifies that the person signing it is eligible to vote. The voters' roster contains signatures of those persons who voted at a precinct voting booth.

Bradford, in examining Naranjo's registration card, said the signature on the voter roster "is written by a person different from the person signing the voter registration."

Naranjo, who is staying with a relative in Kingsville, Texas, said she was uncertain whether she had voted in November. "I can't remember, but I think I did," she said in a telephone interview.

She did not explain why her signature on the registration form was different from the one on the voting roster.

Continued on Page 11

BEST AVAILABLE COPY

Forged voter-registration cards found in spot-check of elections

MN SUN FEB 8 1981

Continued from Page 1B

A signature in Precinct 1536 of District 2 stood out as an apparent forgery. It was that of an elderly woman, Mary Campos, who moved from San Jose to Sacramento in October. Campos formerly lived at Coburn's Delmas Avenue Rest Home, 945 Delmas Ave.

Campos' signature appeared on an absentee ballot, one of six mailed from that address. Bradford concluded that three signatures, including that of Campos and two other residents, those of Allene Ivy and Rosa Watts, were written by one person.

Martin T. Coburn, owner of the facility, said Watts is 85 years old and Ivy is blind. He said he signed to "help them out."

However, he denied signing for Campos. "I don't know what happened, but that's not my handwriting," Coburn said.

Under state law it is illegal to sign for another person who is using an absentee ballot unless the voter is incapacitated. In that case, a special affidavit is used to explain the circumstances. The special affidavit was not used in the absentee ballots sent from Coburn's rest home.

Illegally registered voters also were discovered during a check of hundreds of registration cards. Thirty-four registered voters whose affidavits listed them as being born outside the United States were picked to determine whether they were eligible to vote.

A check of U.S. Immigration and Naturalization Service records showed none of the registrants was a U.S. citizen.

Manuel Antonio Alfaro, a patient at El Dorado Guidance Center, 101 Jose Figueres Ave., registered to vote in District 5. But he is not a U.S. citizen.

Alfaro said a former nurse at the center asked him to fill out the voter-registration card. He said the nurse had not explained to him what he was signing. Alfaro said the nurse left the facility after the November election.

"I didn't know what it was. He just asked me to fill it out and I did," said Alfaro, an El Salvadoran.

He recalled being taken by center personnel to vote at a nearby poll on November.

The center's administrator, Adele Vernon, said the center normally allows all its patients to register and vote. "We provide the cards and what they put on them is their personal business," she said. "We have no way of telling whether they are eligible to vote."

Antonio Aguilar registered to vote in 1976 but did not realize what he had done until a reporter explained the registration process to him. Aguilar is a permanent resident alien and ineligible to vote.

He said the person who registered him at a shopping center told him he was signing a petition, not a registration card.

"I don't read very well and the person who asked me to register said my signature would help improve the welfare system in the county, so I signed," Aguilar said. "Now I know she lied to me."

Aguilar said he was surprised when he began receiving voting material. "I'm a permanent resident alien and I know I can't vote, so I would just throw away the material," he said.

Also among the ineligible registered voters in District 5 were two 18-year-old women who immigrated from Panama and Mexico. The parents of the two said the women had registered to vote because they mistakenly thought they became U.S. citizens when their mothers were granted U.S. citizenship several years ago.

Jose Mendoza, another registered voter who is not a U.S. citizen, said he and his wife had signed the registration cards because "we heard all sorts of radio commercials in Spanish urging people to vote."

Mendoza appeared surprised when told it was illegal for aliens to sign such a card. "I didn't know that. I can't read English or Spanish because I never went to school. Why didn't the radio commercials say you had to be a U.S. citizen to sign them?" he asked in Spanish.

Mendoza said he and his wife registered by picking up cards at an East Side shopping center.

Mann said many of the public-service commercials and placards distributed by his office do not explain that persons must be 18 years old or older and U.S. citizens before they can register to vote.

Dora Gonzales, 288 S. King Road, appeared stunned when asked by a reporter to verify her signature with voter-registration records. "I've never registered to vote. I'm not a citizen and I know I'm not supposed to vote. Somebody must have taken my name and put it on that card," she said.

Richard Gomez, community relations director of Jobs for Progress Inc., also appeared surprised when told there was a voters' registration card listing him as living at 1680 Santa Clara St. The address is that of the American GI Forum, a Hispanic veterans' organization. Gomez is former executive secretary of the GI Forum in San Jose.

When shown a copy of the card that included a signature, Gomez shook his head and said, "I didn't fill out that card. I moved to Fremont in 1977 and haven't voted in Santa Clara County since then. I didn't even vote in the last election because I didn't like any of the candidates."

Abel Cota, executive director of San Jose GI Forum Community Services, which occupies the Santa Clara Street address, said he had no idea who could have filled out the card and placed Gomez's name on it.

Cota said that while the GI Forum signed up 1,600 voters last spring, he did not believe any of the volunteer registrars would have filled out a phony card.

235

205

Immigration — San Jose Mercury Sept 17, 1981

D.A. checks if aliens vote in San Jose

NEWS THU SEP 17 1981

P1B

Of 100 names submitted, only 20 on naturalization records

By Elias Castillo
Staff Writer

The U.S. Immigration and Naturalization Service says it has no records to show that scores of foreign-born registered voters in San Jose ever became U.S. citizens and thus eligible to vote.

A check into the eligibility of the voters was made at the request of the Santa Clara County District Attorney's Office as part of its investigation into illegal voter registration in San Jose.

INS records are incomplete, an official with the agency acknowledged. But if the records are correct in this case, they indicate that scores, and perhaps hundreds, of residents are illegally registering to vote.

"It doesn't look good at all," said George Mann, county registrar of voters. "If it's that bad, it deserves some action."

Assistant District Attorney Leo Himmelsbach said the office plans to conduct door-to-door checks to find out whether the people on the INS list are citizens and whether they voted.

The INS keeps records of resident aliens, naturalized citizens and aliens who have been caught trying to come into the country illegally.

Of 100 names submitted by the District Attorney's Office, the INS found only 20 on its records. Of those, eight were naturalized citizens and therefore eligible to vote.

The names were selected from a larger list of 850 foreign-born voters compiled by the District Attorney's Office.

Himmelsbach said that the sample of 100 is [illegible] county could have [illegible] registered [illegible] fraudulently [illegible]

Himmelsbach is heading the investigation, which was started in February by District Attorney Lowell P. Bergman.

The investigation has found no evidence so far that illegally registered voters influenced the outcome of any elections in the county, the District Attorney's Office said.

Under federal law, only U.S. citizens are allowed to vote. And it is a felony for voters to give false information when they register. A voter can only register after signing an affidavit declaring that he or she is a U.S. citizen.

Voter-registration clerks said many persons of Hispanic origin register in order to cross easily back and forth from Mexico, showing their registration receipts to U.S. Customs officials as evidence that they are U.S. citizens.

Of the 12 people found ineligible to vote, four cast ballots in the November election, a Mercury check of voting records shows.

The absence of entry records for the 80 could mean they illegally entered the United States, an INS official said, but that may not necessarily be the case for some of the names.

The official said INS records, especially those for older people, may be incomplete, but tend to be more accurate for younger people, especially those in their early 20s and 30s.

The District Attorney's Office has said that is one of the reasons the names of foreign-born people in that age group were selected for the INS check.

The majority of those listed by the District Attorney's Office named either the Philippines or Mexico as their birthplace.

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D.A. checks if aliens vote in S.J.

Continued from Page 1B

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voter registration cards. (People registering to vote are required to identify their place of birth on the card.)

San Jose City Councilwoman Blanca Alvarado, from whose 5th District the names were selected, criticized the District Attorney's Office for limiting the investigation only to her district.

"It puts us into a position of scrutiny that almost accuses us of wrongdoing, where illegalities may also have occurred in other districts," she said.

Alvarado said some of the people found to be ineligible to vote "may have gotten caught up in the excitement of last year's political campaign" and registered to vote without full knowledge of voter-registration requirements.

Bergman said he had ordered the investigation on the 5th District because of a Mercury report earlier this year that found voter-registration irregularities in that district.

Himmelsbach said the list of 100 names submitted to the INS for verification was representative of foreign-born voters in the 5th District, which covers most of San Jose's East Side.

The check will involve finding the registered voters on the list and asking for proof that they are U.S. citizens.

Himmelsbach said it was possible that overzeal campaign workers could register poorly educated foreign-born residents without explaining the voting process and its requirements.

The new data will help the district attorney's investigation into voter fraud in the county, he said.

"Now we have something we can get a handle on," Himmelsbach said. He was referring to the failure of the District Attorney's Office so far to get substantial data for its longstanding investigation.

Originally, the District Attorney's Office had sought to have the INS in Washington, D.C., check 850 names, but balked when the federal agency said it would charge $1,836 for the service.

Instead of having all 850 names checked, 100 names were selected on a spot basis from the larger number. The 100 names were to provide a clue as to whether there were large numbers of people whose status as registered voters was questionable.

Himmelsbach said the District Attorney's Office will decide whether to have the INS check the other 750 names after finding out how many people in the sample turn out to be illegally registered voters.

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San Jose Mercury ■ Friday, March [illegible]

D.A. wants state to stop voter registration by mail

By Elise Ca[illegible]
Staff Writer

District Attorney Louis Bergna of Santa Clara County [illegible] called for legislation to halt mail registration of voters and to overhaul the state's voting process, a system he blasted [illegible] being "ripe for fraud."

The proposals are part of a six-page report outlining the results of a yearlong investigation [illegible] alleged voter fraud in Santa Clara County. Copies have been sent to the area's state legislators.

Among the proposed legislative changes:

✓ Eliminate the use of registering voters by mail. Under [illegible] registration, Californians can register to vote by simply filling out a card attesting that they are U.S. citizens and are 18 years old.

✓ Anyone registering to vote should be required to prove he is a U.S. citizen.

✓ Anyone registering voters should be required to sign the affidavit of registration and provide a home address.

✓ Copies of voters' signatures should be available at the polls to allow comparison of signatures between the person voting and the actual registrant.

✓ The registrar of voters should be authorized to seek proof of citizenship from foreign-born voters and be capable of purging the names of those not responding to these demands.

✓ Accurate record-keeping of people or organizations that pick up material for voter-registration cards should be enforced. Currently, anyone can pick up dozens of voter-registration cards by giving only his name or the name of the organization and how the cards will be used.

Tom Miller, chief deputy for the secretary of state's office, criticized the proposals, saying they penalize all the voters for the abuse of a few. The secretary of state is responsible for overseeing the voting process throughout the state.

Miller said the state stopped comparing voter signatures in the 1970s because "it was too expensive" and imposed an unnecessary workload on poll keepers who are not "handwriting experts."

He said the proposal requiring foreign-born voters to prove their citizenship is "unconstitutional."

The current attitude toward the voter-registration process, Miller said, "is that the system is safe, but that it is subject to abuse that is minor. To root out that minor abuse would inconvenience and disenfranchise a large percentage of those eligible to vote by imposing strict requirements on identification or proof of citizenship.

"A lot of persons with names like Martinez or Choy would be kept from the polls with these restrictions," Miller said.

George Mann, Santa Clara County registrar of voters, would not comment on the report, other than to say that he disagreed with ending mail registration.

Santa Clara County had 602,880 registered voters as of Nov. 4, 1981.

The voter-fraud probe was begun in February 1981, after reports surfaced of ineligible people voting in San Jose's 8th City Council District. A random list of 125 names of foreign-born voters was investigated, during which it was learned that 28 ineligible aliens had registered to vote.

The alien voters said the people registering them told them they were eligible because they either were married to a U.S. citizen or had lived residents of this country for a long time. Under federal law, neither reason qualifies a person to register.

Investigators said finding 28 errant voters in the random sampling indicates the presence of a larger number of ineligible voters. However, they said there was no way of determining that number without requiring all foreign-born voters to prove their citizenship.

Suicide try called 'act of love'

Lawyer gives explanation for Singer's overdose

By Kathe[illegible] Eli[illegible]
Staff Writer

Convicted murderer Robert Howard Singer took an overdose of pills late last month "as an act of love for his wife and for his family," Singer's attorney told a judge Wednesday.

The attorney, William Melcher, said Singer wanted to [illegible] newspaper publicity after his conviction Feb. 1 because it encumbered on him . . . to execute himself, removing himself from the scene. . . . He didn't want to be [illegible]."

The 47-year-old Michigan restaurateur faces a possible death sentence in the contract killing of his wife's lover, Richard Wilkin. The victim was shot to death at his front door in Santa Clara on March 31, 1980, [illegible] Andrew Granger, who was convicted [illegible] last summer.

Jurors [illegible] hearing evidence Wednesday in the [illegible] which they will enter in the case, said he would call no witnesses in the penalty phase because he could find no evidence of prior crimes or other aggravating facts in Singer's case.

Singer has denied any involvement in the murder of Wilkin, and he repeated that denial Wednesday. Speaking hoarsely and wearing a wrinkled gray suit, Singer began his testimony by recounting hardships he has suffered, including years of hard work, number of serious back operations, and a first wife who he said had become emotionally ill early in the marriage and whom he later divorced.

After the back operations, Singer said he was walking was impaired for years.

"Many people say I should be very grateful (for regaining the ability to walk)," Singer said, looking upward. "I say, . . . 'Bull—.' I went through a lot."

Mtn. View dumps garbage contract

By Diane Curtis
Staff Writer

Mountain View has turned up its nose at $9 million worth of San Francisco garbage, preferring instead to consider transforming the North Bayshore garbage dump into much-needed housing sites.

And San Francisco officials are left with the task of finding a new dump site. "Obviously, we're disappointed," Dennis Bossy, executive assistant to San Francisco's chief administrative officer, said Wednesday.

The Mountain View City Council voted 4-3 Tuesday night to deny a two-year extension of a garbage-dumping contract with San Francisco that expires in 1983.

San Francisco had made two offers. One was to pay Mountain View $5.4 million to dump 1.1 million tons of garbage at the landfill adjacent to Shoreline Park and at the Ferrari Landfill on Stierlin Road. The second offer would have brought in $9 million from San Francisco for allowing the city to dump all its garbage at the Shoreline Park site.

Council members instead decided to spend between $75,000 and $125,000 to study the possibility of building housing at the Shoreline Park site.

Voting to turn down the San Francisco garbage contract to proceed with the housing study were council members Dick Wesmuth, attending his last council meeting; Pat Figueroa; Barbara Packard; and Lee Nichols. Opposed were Mayor Marilyn Peterson and council members Angela Francisco and Matt Allen.

Planning Director Glen Cauthry said the study would take at least nine months.

A previous study on property for housing on the landfill indicated homes would not be safe during earthquakes and floo-

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In the Supreme Court of the United States

No. 86-1217

JOSEPH P. RUSSONIELLO, ET AL., PETITIONERS

v.

JOSE J. OLAGUES, ET AL.

ORDER ALLOWING CERTIORARI. *Filed April 20, 1987.*

The petition herein for a writ of certiorari to the *United States Court of Appeals for the Ninth Circuit* is granted.

In addition to the Questions Presented by the petition for a writ of certiorari, the parties are invited to brief and argue the question of possible mootness.

U.S. GOVERNMENT PRINTING OFFICE: 1987—181-483/40510